

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RONALD M. GEORGIA,

Plaintiff,

vs.

3:21-cv-484

KYLE DAVENPORT,

Defendant.

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EXCERPT  
Transcript of Testimony  
April 19, 2023  
Federal Building and Courthouse  
15 Henry Street  
Binghamton, New York

The HONORABLE MIROSLAV LOVRIC Presiding.

A P P E A R A N C E S

For Plaintiff: EDWARD KOPKO, ESQ.  
JASON VIOLETTE, ESQ.  
KEVIN KELLY, ESQ.

For Defendant: WILLIAM TROY III, ESQ.

*Ruth I. Lynch, RPR, RMR, NYSRCR  
Official United States Court Reporter  
Binghamton, New York 13901*

1 THE CLERK: Court is now in session. Case is  
2 Ronald M. Georgia versus Kyle Davenport, 3:21-CV-484.  
3 Please state your appearances for the record.

4 MR. KOPKO: Edward Kopko for the plaintiff.

5 THE COURT: All right. Good morning, Mr. Kopko.

6 MR. KOPKO: Good morning, sir.

7 MR. TROY: William Troy for the respondent, the  
8 defendant.

9 THE COURT: Good morning, Mr. Troy.

10 And I know, Mr. Kopko, you have also an associate  
11 that's helping out, Kevin Kelly here?

12 MR. KOPKO: Attorney Kevin Kelly is here. And  
13 Attorney Jason Violette had to -- informed you that he had  
14 to participate in a virtual conference with a New York  
15 Supreme Court Justice.

16 THE COURT: Okay. Very good. All right. And  
17 good morning, Mr. Georgia, to you.

18 PLAINTIFF GEORGIA: Good morning.

19 THE COURT: And good morning, Mr. Davenport.

20 DEFENDANT DAVENPORT: Good morning, sir.

21 THE COURT: All right. All right. Well, we're  
22 here this morning, a continuation of the trial that we  
23 officially started on Monday, April 17. And just to recap  
24 on what we accomplished and the importance of the matters on  
25 Monday, so I did again cover with the parties, counsel and

1 the actual parties, the joint stipulation at 53. Everyone  
2 confirmed that it was their intention to proceed with a  
3 bench trial, and we are going to do that. And then  
4 importantly, also the parties agreed upon and the Court  
5 received in evidence exhibits 1 through 42 which are now in  
6 evidence. And you do not need to lay any foundation. You  
7 can utilize those exhibits as you see fit, and you can also  
8 obviously question any witnesses simply by going directly to  
9 the exhibit.

10 And then, Mr. Kopko, the Court received also on  
11 Monday the trial exhibit form that you were kind enough to  
12 put together along with Mr. Troy, and my law -- my courtroom  
13 deputy has that. So that will be the official exhibit list  
14 of those 42 exhibits that are now in evidence.

15 And then lastly, simply, I granted and I have no  
16 problem with the attorneys' request at the end of the trial  
17 to submit in writing what would otherwise be oral summations  
18 and rebuttal. And we'll set a schedule for that if we get  
19 to it, we'll set a schedule of that at the end of the trial.

20 So otherwise, Mr. Kopko, are we ready to proceed  
21 today?

22 MR. KOPKO: Yes, sir.

23 THE COURT: All right. Mr. Troy, are we ready to  
24 proceed today?

25 MR. TROY: Yes, sir.

1           THE COURT: All right. We'll then proceed with  
2 the opening statements and then with the plaintiff's  
3 case-in-chief.

4                           - - - - -

5           (TESTIMONY EXCERPT AS FOLLOWS:)

6           THE COURT: All right. Mr. Kopko, is the  
7 plaintiff prepared to present its case-in-chief?

8           MR. KOPKO: Yes, your Honor.

9           THE COURT: All right, Mr. Kopko, you may proceed.

10          MR. KOPKO: Call Mr. Davenport, your Honor.

11          THE COURT: All right. Mr. Davenport, if you  
12 could come right up here. This is the witness chair, as we  
13 affectionately call it. And if you just stand for a moment,  
14 you'll be given an oath.

15          THE CLERK: Please state your name for the record.

16          THE WITNESS: Kyle Davenport.

17                       (The witness was duly sworn.)

18          THE COURT: All right, let me just, before we  
19 start, Mr. Kopko, so is it Deputy Davenport, Officer  
20 Davenport?

21          THE WITNESS: Deputy at the time. At the time it  
22 was Deputy.

23          THE COURT: Okay. That's not the critical part.  
24 The critical part is use the microphone.

25          THE WITNESS: Yes, sir.

1 THE COURT: It picks up pretty well but it will  
2 make it easier for all of us, including the court reporter.  
3 You can also adjust that microphone up and down. And  
4 Mr. Kopko as well, please use the microphone.

5 And then, Deputy Davenport, if there are any  
6 exhibits that will be shown to you, you'll see them right  
7 there on the screen. If you don't see it, please tell us.  
8 As I said before, technology is great until it doesn't work,  
9 so. We should all make sure that we're seeing it.

10 All right. Mr. Kopko, you may proceed.

11 MR. KOPKO: Thank you, your Honor.

12 KYLE DAVENPORT,  
13 having been called as a witness, having  
14 been duly sworn, testified as follows:

15 CROSS-EXAMINATION

16 BY MR. KOPKO:

17 Q Good morning.

18 A Good morning.

19 Q State your full name, please?

20 A Kyle William Davenport.

21 Q And, Mr. Davenport, I'm going to ask you about the  
22 incidents that occurred on June 1st, 2019. Okay?

23 A Okay.

24 Q And you were on patrol as a sworn deputy with the  
25 Tompkins County Sheriff's Department on that date, right?

1 A That is correct.

2 MR. KOPKO: Your Honor, if you don't mind me  
3 instructing him.

4 BY MR. KOPKO:

5 Q You don't need to lean forward all the time. You can  
6 pull your chair forward so it's more comfortable. Yes.

7 A Okay.

8 Q And what time did you go on duty?

9 A I went on duty at 11 p.m. that night.

10 Q Now, you received a communication from the Tompkins  
11 County dispatch about a noise complaint, correct?

12 A That's correct.

13 Q And that information that you received led you to  
14 believe that you should go to Mr. Georgia's address on  
15 Van Ostrand Road, correct?

16 A I didn't know whose address it was at the time.

17 Q You didn't know anything about that, right, all you  
18 had was a noise complaint?

19 A That's correct. And an address.

20 Q And when you got that noise complaint, you knew that  
21 the Town of Lansing did not have a noise ordinance.

22 A That's correct.

23 Q That there was no -- no controls from the Town of  
24 Lansing about decibel levels, correct?

25 A That's correct.

1 Q Or time restrictions, correct?

2 A That's correct.

3 Q Or locations of gatherings?

4 A That's correct.

5 Q None of those factors you were aware applied to what  
6 you were doing. Correct?

7 A Right.

8 Q One moment, please. And, Deputy, you drove over there  
9 and you did not contact the complainant, correct?

10 A Correct.

11 Q You didn't seek any information about whether the  
12 complainant was particularly vulnerable to noises, correct?

13 A Correct.

14 Q Even though the complainant's house was directly  
15 across the street from Mr. Georgia's house, correct?

16 A Correct.

17 Q And you agree that you could have very, very readily  
18 just got out of your walk -- your patrol car and had walked  
19 50 feet or so, and you could have gone over to  
20 Mr. Gonzalez's house.

21 A Correct.

22 Q All right. And you could have called the dispatch to  
23 make certain that Mr. Gonzalez was available to you,  
24 correct?

25 A Correct.

1 Q And you didn't do any of that.

2 A That's correct.

3 Q You parked your car on the roadway, correct?

4 A Yes, sir.

5 Q And you walked up the driveway, correct?

6 A Yes.

7 Q You could have driven your car up the driveway,  
8 alerting people to your presence, correct?

9 A Yes.

10 Q You preferred to park your car on the driveway and  
11 walk up the driveway in the dark. Correct?

12 A I parked my car on the roadway, then walked up the  
13 driveway.

14 Q But you did not announce your presence when you began  
15 to walk up the driveway.

16 A That's correct.

17 Q And you agree that you could have pulled into the  
18 driveway and turned on your emergency lights, correct?

19 A I could have, yes.

20 Q You -- you agree that you could have pulled into the  
21 driveway and used the vehicle's public address system to  
22 alert the occupants that you were there.

23 A I could have done that as well, yes.

24 Q And you didn't do that either.

25 A Correct.



1 Q All right. Now, instead you snuck up the driveway,  
2 correct?

3 A I walked normally up the driveway.

4 Q Well, you didn't use your flashlight to alert the  
5 occupants that you were coming up there.

6 A Correct.

7 Q Now, there were no exigent circumstances for you to  
8 enter the property.

9 A Okay.

10 Q I'm asking you, do you agree that there were no  
11 exigent circumstances for you to enter the property?

12 A Correct, yes. There was no exigent circumstances.

13 Q And you agree that you did not have a warrant?

14 A Correct.

15 Q All right. And you agree, as we said before, that the  
16 Town of Lansing did not have any sort of ordinance  
17 controlling the volume, the place, the time of noise,  
18 correct?

19 A Correct.

20 Q You were there because you decided that you were going  
21 to stop the noise, correct?

22 A I was going to do my best, correct.

23 Q But that's what your goal was, correct?

24 A Correct.

25 Q Now, when you were walking up there, you did not

1 consider that Mr. Georgia may have had a hearing impairment  
2 that he needed the music louder, correct?

3 A Correct.

4 Q You had no idea who turned the volume of the music up.

5 A I had an idea that it was Mr. Georgia since he was the  
6 only one there.

7 Q You did not know that when you were walking up the  
8 driveway.

9 A As I was walking up the driveway, no, I did not know  
10 that.

11 Q You had no idea whether there were 4 people there or  
12 400 people.

13 A Correct.

14 Q Right, so you had no idea who was responsible for the  
15 music.

16 A Correct.

17 Q And when you were walking up there, you came upon  
18 Mr. Georgia, correct?

19 A Correct.

20 Q And the first thing that Mr. Georgia said to you is  
21 get the fuck off of my property. Correct?

22 A That's correct.

23 Q All right. And at that time, at that very instant,  
24 you could have simply turned around and got the fuck off of  
25 his property, correct?

1 A Correct.

2 Q But you decided that you weren't going to do that,  
3 correct?

4 A Correct.

5 Q Because you were going to get that music off one way  
6 or the other, correct?

7 MR. TROY: Objection to form.

8 A No.

9 MR. TROY: Argumentative.

10 THE COURT: Hold on a second, Mr. Kopko. I'm  
11 sorry, Mr. Troy?

12 MR. TROY: I said argumentative.

13 THE COURT: It is a little argumentative,  
14 Mr. Kopko. But I'll -- I'll let you know --

15 MR. KOPKO: We'll move on, your Honor.

16 At this time, your Honor, I would like to display  
17 the video camera.

18 THE COURT: You may display any exhibit 1 through  
19 42, Mr. Kopko. And just let me know which exhibit we're  
20 looking at now.

21 MR. KOPKO: We're looking at D-14, your Honor.

22 THE COURT: 14?

23 MR. KOPKO: Yeah.

24 (Video played)

25 BY MR. KOPKO:

1 Q Now, Deputy, you were wearing a body worn AXOM video  
2 and audio recorder, correct?

3 A Correct.

4 Q Okay.

5 MR. TROY: Your Honor?

6 THE COURT: Yeah, Mr. Troy.

7 MR. TROY: I was just going to say I would like to  
8 stop this before he asks his next question but he stopped  
9 now.

10 THE COURT: Okay. Yeah, Mr. Kopko, it's playing  
11 for a little bit. And again, you can exhibit the exhibit as  
12 you see fit, but it was playing while you were asking  
13 questions.

14 MR. KOPKO: Your Honor, I beg your pardon. I know  
15 that Mr. Troy is much more schooled in doing this stuff.

16 BY MR. KOPKO:

17 Q All right, so you're wearing this audio and video  
18 recorder, correct?

19 A Correct.

20 Q And the published protocols, policies, and guidelines  
21 from the sheriff's department require you to activate it  
22 when you're having contact with the public, correct?

23 A Correct.

24 Q And those same policies require you to keep it on when  
25 you're having that contact, correct?

1 A Correct.

2 Q And you activated it when you were getting out?

3 A Correct.

4 (Video played)

5 Q Now, when this begins recording, I hear faint music,  
6 but I'm not testifying. When you heard that music, is that  
7 what you believed to be loud music?

8 A Yes.

9 Q All right. What you hear on -- on this tape is what  
10 you personally heard.

11 A Correct, yes.

12 Q And you're telling this Court that you thought that  
13 that was loud music.

14 A Yes, I did.

15 Q You don't have any particular skill or training in  
16 determining unreasonably loud noises?

17 A No, I don't.

18 Q You never got any training like that, right?

19 A No.

20 Q And you didn't have a decibel meter with you?

21 A That's correct.

22 Q So this was all Deputy Davenport taking it upon  
23 himself to determine that this was loud music, right?

24 A That's correct, as well as the complainant's.

25 Q You never talked to the complainant.

1 A Correct.

2 Q All right. You didn't say a word to the complainant,  
3 correct?

4 A True.

5 Q You don't know what the level of music was at the time  
6 the complaint was made and the time that you heard it.

7 A That's correct.

8 Q You have no idea what that was.

9 A That's correct.

10 Q You didn't ask the complainant what time he heard it,  
11 correct?

12 A That's correct.

13 Q You didn't know anything about that.

14 A Correct.

15 Q All right. You determined when you were walking up  
16 the driveway that this was loud music.

17 A Correct.

18 (Video played)

19 Q All right. The first thing that Mr. Georgia says to  
20 you is get the fuck off of my property, right?

21 A That's correct.

22 Q And you clearly understood that command --

23 A Correct.

24 Q -- correct?

25 And you knew then that you -- you did not have a

1 warrant, right, to be on the property, you didn't have  
2 judicial authority authorizing you to be there, correct?

3 A I had authority because I had a complaint, and I  
4 walked down the driveway.

5 Q All right. But you said complaint. We went over this  
6 several times. You never got a complaint, correct?

7 A No, I did, through my dispatch center.

8 Q Through your dispatch center.

9 A That's correct.

10 Q You don't know what the complaint was?

11 A It was loud music.

12 Q Loud music, but you don't know how loud it was, right?

13 A That's correct.

14 Q You don't know when that complaint was -- was made  
15 about the loud music, correct?

16 A I -- correct.

17 Q So you could have at that point, Deputy, just turned  
18 around and walked away, correct?

19 A Yes.

20 Q But you chose not to do that, right?

21 A Correct.

22 Q Because you were dead set on getting this music turned  
23 down, right?

24 MR. TROY: Objection to form, your Honor, it's  
25 argumentative.

1 A Right.

2 THE COURT: Well, it is a little bit, but again  
3 what Mr. Kopko is trying to elicit from Deputy Davenport, so  
4 I'll allow it, but, Mr. Kopko, I do want to, you know,  
5 preface that you can make your points about asking the  
6 witness whatever information you want from them but then not  
7 argue with him as to what he should, could have, would have,  
8 because you can make those arguments to the Court. Unless  
9 there's a point that you want to ask the witness as to why  
10 he didn't do something, but simply saying to him well, you  
11 could have done that, you know, that -- that's obvious that  
12 he could have done anything, but I just don't want to get  
13 into a situation where we're having arguments from the  
14 witness.

15 MR. KOPKO: Go ahead.

16 (Video played)

17 BY MR. KOPKO:

18 Q All right. Now, you put your right hand on the left  
19 portion of Mr. Georgia's chest and you shoved him backwards,  
20 correct?

21 A I -- yeah. Yeah. Correct.

22 Q Now, Deputy, you know from your training, right, that  
23 an unauthorized touching like that is a battery, correct?

24 A No. I don't recognize touching -- I guess I'm  
25 confused with what you're trying to ask.



1 Q Let me try to clarify this, all right. If you -- if  
2 you were out on the street in uniform and I walked up to you  
3 and I put my hand on your chest and shoved you backwards,  
4 you know that you could arrest me for battery, correct?

5 A I could arrest you for harassment violation level.

6 Q Violation level?

7 A Yes.

8 Q All right. So putting your hand on Mr. Georgia and  
9 shoving him back you acknowledge was at least harassment  
10 violation level, correct?

11 A Correct.

12 Q Now, did you try -- go ahead.

13 (Video played)

14 Q Now, you grabbed Mr. Georgia's arm, correct?

15 A I attempted to, correct.

16 Q No, you grabbed his arm. We can see it. We're going  
17 to do it again.

18 (Video played)

19 Q Right there. You see you grabbed his arm.

20 A Yes, I do.

21 Q All right. Now, an unauthorized touching of another  
22 person can be this harassment level violation, correct?

23 A Correct.

24 Q All right. And that's what you did there, grabbing  
25 his arm like that.

1 A Is that a question?

2 Q Yes.

3 A Yes, I grabbed his arm.

4 Q All right, now.

5 (Video played)

6 Q Do you recall saying that you're not playing this  
7 fucking game?

8 A I do.

9 Q All right. What game were you playing?

10 A I wasn't playing a game.

11 Q What game were you referring to?

12 A Just letting him yell at me and walk all over me.

13 Q Letting him do what?

14 A Yell at me and, I guess it's a phrase, to walk all  
15 over me, basically like me not doing anything about it.

16 Q Okay. Well, you agree that -- that people can protest  
17 to the police, correct?

18 A That's correct.

19 Q And you agree that that's not a game, that people have  
20 a constitutional right to do that, correct?

21 A Correct.

22 Q And you agree that people can say almost anything to  
23 the police except for fighting words, imminent fighting  
24 words, and they have a constitutional right to say that,  
25 right?

1 A Correct.

2 Q But yet you weren't going to play that game, correct?

3 A Correct.

4 Q And you weren't going to let Mr. Georgia walk all over  
5 you, correct?

6 A That's correct.

7 Q That's what you're saying here.

8 A Yes.

9 Q And by walk all over you, what you mean is that you  
10 were not going to allow Mr. Georgia to exercise his  
11 constitutional right to protest you being there, correct?

12 A No.

13 Q By saying you weren't going to let him walk all over  
14 you, you were not going to tolerate him ordering you off the  
15 property, correct?

16 A Correct.

17 Q Now, you agree that Mr. Georgia had every right to  
18 order you off of the property, correct?

19 A That's correct.

20 Q But you decided that nobody was going to order you off  
21 of that property, correct?

22 A No.

23 Q You decided that Georgia was not going to order you  
24 off of that property --

25 A Correct.

1 Q -- right?

2 And you were going to stay on the property, right?

3 A I wasn't going to stay on the property.

4 Q Why didn't you just turn around and leave, then?

5 A Because I wanted to solve the problem with the noise.

6 Q Well, you say solve the problem. Deputy, you were the  
7 one who thought there was a problem, correct?

8 A Myself and Mr. Gonzalez.

9 Q You never talked to Gonzalez, we already went over all  
10 of that stuff. You were the one who decided that there was  
11 a problem, correct?

12 A Myself and Mr. Gonzalez. I believe that  
13 Mr. Gonzalez --

14 MR. KOPKO: Well --

15 A -- also had a problem.

16 MR. KOPKO: -- I object to that, your Honor, I  
17 move to strike. What he believes about Gonzalez is of no  
18 moment.

19 THE COURT: No, Mr. Kopko, I mean your -- your  
20 questions, last several, are really getting into the mind of  
21 the witness and asking him to articulate what was going on  
22 in his mind. The witness can say whatever it is, and you  
23 can obviously examine him about the logic or illogic of that  
24 statement, but I think that's where you've gone with this is  
25 you're asking him to tell you what's going on in his head

1 and what he's doing or not doing and why, and so on, and so.

2 MR. KOPKO: My motion to strike, that was a little  
3 bit more directed, your Honor. He never talked to Gonzalez.  
4 He doesn't know anything about Gonzalez.

5 THE COURT: I know that, and I think the record's  
6 clear of that, but I think the -- the witness is  
7 articulating, whether rightly or wrongly, why he did what he  
8 did, and you may be right that he never spoke to Gonzalez,  
9 and I believe the witness has said that. But the witness is  
10 also saying dispatch gave me the following information, and  
11 he's putting two and two together in his mind. All that  
12 being said, it's his mental state and state of mind when  
13 these things unfolded. If you don't want to hear, then  
14 don't ask him the question. Don't say what were you  
15 thinking or why were you doing this or why weren't you. But  
16 that's where we've gone, which, again, I don't have a  
17 problem with that, because I think it's legitimate for you  
18 to explore this witness's state of mind in connection with  
19 the actions he took or failed to take.

20 MR. KOPKO: We're going to move on here, Judge.  
21 Go ahead.

22 (Video played)

23 BY MR. KOPKO:

24 Q You heard the part where you said that Mr. Georgia was  
25 being an ass?

1 A Yes.

2 Q Did you hear that part?

3 A Yes.

4 Q And you heard the part again where you said you're not  
5 playing these fucking games --

6 A Yes.

7 Q -- right?

8 Is that the same game that you described earlier?

9 A Yes.

10 Q Now, after this, you had a conversation with your  
11 lieutenant. What is his name? I have difficulty  
12 pronouncing that.

13 A It's Lieutenant Koskinen.

14 Q Koskinen?

15 A That's correct.

16 Q Koskinen. So Lieutenant Koskinen watched this tape,  
17 correct?

18 A That's correct.

19 Q And he told you that your language on this tape was  
20 inappropriate, unprofessional, correct?

21 A That's correct.

22 Q Do you agree with that?

23 A I do.

24 Q All right. You didn't agree with it initially,  
25 though, did you?

1 A No.

2 Q What -- what happened between the couple of minutes  
3 between when you said you didn't do anything inappropriate  
4 and to the time where you acknowledge that you were  
5 inappropriate, what happened in between that time?

6 A I think I matured as a police officer and I realized  
7 that being professional is pretty important, and not cursing  
8 to people, to citizens, while we're on call, I think that's,  
9 I guess, important not to do that. And that's our policy  
10 now.

11 Q Well, Deputy, you -- you knew on June 1st, 2019, that  
12 it was inappropriate to be using that language, didn't you?

13 A No.

14 Q You didn't realize that?

15 A No.

16 Q You didn't get any of that training in the police  
17 academy?

18 A No.

19 Q Nothing like that.

20 A No.

21 Q Had you used -- have you seen other supervisory  
22 personnel at Tompkins County using that sort of language  
23 towards a member of the public?

24 A Not that I can remember.

25 Q Well, what was your model for doing that?

1 A Well, I was -- when I was working in the Village of  
2 Groton, my field training officer told me sometimes you need  
3 to talk on other people's level to get their attention.

4 Q To get their attention.

5 A That's correct.

6 Q So you were trying to -- you were -- you were using  
7 unprofessional language to get the attention of  
8 Mr. Georgia --

9 A That's correct.

10 Q -- right?

11 It seems to me from the tape that you have  
12 Mr. Georgia's undivided attention. Tell us all of the  
13 reasons why you thought you didn't have Mr. Georgia's  
14 attention.

15 A He was talking over me, every time -- every time I  
16 tried to explain the reasons why I was there, he was talking  
17 over me.

18 Q Well, people have a right to talk over a police  
19 officer, don't they?

20 A They do, yes.

21 Q Yeah. Now, that irritated you, though, didn't it?

22 A Can you repeat the question?

23 Q Yeah. You were irritated about the fact that  
24 Mr. Georgia was talking over you.

25 A No, I wasn't irritated.



1 Q The tone of your voice is louder, right? You're more  
2 insistent. You don't describe that as being irritated?

3 A No, I think I was just doing my best to get his  
4 attention.

5 Q To get his attention.

6 A That's correct.

7 Q Well, I began this segment by asking what made you  
8 believe that you didn't have his attention. He was standing  
9 right in front of you.

10 A Because, like I said before, he was talking over me  
11 and wouldn't let me finish sentences when I was trying to  
12 explain the reason why I was there, what I was hoping to  
13 accomplish.

14 Q All right. You agree that Mr. Georgia had the right  
15 to say anything he wanted on his own property. Right? You  
16 agree with that?

17 A That's correct.

18 Q Yeah. And if he wanted to, you agree that he had the  
19 right to talk over you.

20 A That's correct.

21 Q That's correct? Yeah. And you agree now that your  
22 behavior was unprofessional, correct?

23 A My language was unprofessional.

24 Q Your language was unprofessional. You don't think  
25 anything else that you did there was unprofessional?

1 A No.

2 Q All right. So your language was unprofessional. You  
3 agree, Deputy, that because your language was unprofessional  
4 that you could have been escalating this encounter.

5 A On June 1st, 2019? No, I did not believe that.

6 Q You didn't believe that?

7 A No.

8 Q You believe it now?

9 A I do.

10 Q And that you contributed to this unfortunate outcome?

11 A There's a possibility of that, yeah.

12 Q Well, you say possibility. Your lieutenant says it  
13 was unprofessional, you agree today that you -- that it's  
14 unprofessional, right? Don't -- don't you further agree  
15 that your language was unprofessional on that occasion and  
16 it led to a further escalation?

17 A I don't know that.

18 Q You don't know that?

19 A No.

20 Q If you had just turned around and walked away, none of  
21 this would have happened, right?

22 A That's correct.

23 Q All right, now, you grabbed Mr. Georgia's arm, right?

24 A Yes.

25 Q And then you shoved him backwards, correct?

1 A Correct.

2 Q All right. And then you continued, what you say,  
3 trying to get Mr. Georgia's attention, right?

4 A Correct.

5 Q Did anything happen that led you to believe that you  
6 did not have his attention?

7 A Yes.

8 Q What was that?

9 A Again, like I stated before, he was talking over me  
10 and he was not -- I was trying to explain the reasons why I  
11 was there and what I was hoping to accomplish, and he  
12 wouldn't let me finish my sentences.

13 Q He did not have to let you finish sentences, did he?

14 A Correct.

15 Q All right, so.

16 (Video played)

17 Q Now, again, you've repeated now for the third time I'm  
18 not playing this game. Correct?

19 A Correct.

20 Q All right. Did it occur to you to call a supervisor  
21 at that point?

22 A Yes, it did.

23 Q All right. To just stop, right? Did it occur to you  
24 just to stop?

25 A It did.

1 Q All right. But you didn't stop, correct?

2 A Correct.

3 Q You kept going with your same line of behavior.

4 Correct?

5 A That's correct.

6 Q In fact, you escalated your behavior by grabbing his  
7 arm, correct?

8 A I was trying to -- no. That's not correct.

9 Q You escalated your -- his -- your behavior when you  
10 pushed him backwards, correct?

11 A No, I don't -- I mean, I don't know what escalated his  
12 behavior.

13 Q You don't know what escalate means? You have a  
14 bachelor's degree and you don't know what escalate means?

15 A I didn't say that. I said I don't know what escalated  
16 Mr. Georgia's behavior.

17 Q I'm not talking about Mr. Georgia's behavior, I'm  
18 talking about your behavior. You escalated your behavior.

19 A Is that a question?

20 Q Yes.

21 A I guess I'm confused. You just said you escalated  
22 your behavior, and then --

23 Q I'm asking you, do you agree that you escalated your  
24 behavior instead of stopping and just calling a supervisor?

25 A No. I don't -- I don't agree to that.

1 Q So you continued to play this game with Mr. Georgia,  
2 correct? Is that correct?

3 A I don't know what game you're talking about.

4 MR. TROY: Objection, characterization, your  
5 Honor.

6 MR. KOPKO: It's his -- I'm sorry.

7 THE COURT: Go ahead, Mr. Kopko. Mr. Troy's  
8 objecting, and your response?

9 MR. KOPKO: Yes. I'm using his words, that --  
10 that -- this game.

11 THE COURT: If you can rephrase that, Mr. Kopko,  
12 I -- I get why Mr. Troy's objecting, if you could just  
13 rephrase it, I think.

14 BY MR. KOPKO:

15 Q All right, you said several times that you're not  
16 playing the game. Correct?

17 A Correct.

18 Q Yeah, but you continued to play the game, correct?

19 A No.

20 Q No? You continued to yell at Mr. Georgia, correct?

21 A I was just -- wasn't yelling at Mr. Georgia.

22 Q You weren't yelling at him?

23 A I raised my voice to get his attention.

24 Q Oh, okay, well, let's use that. Is that part of the  
25 game? Raising your voice?

1 A No.

2 Q That's not part of the game?

3 A I wasn't playing a game.

4 Q Well, now I'm confused. You said three times that  
5 you're not going to play this game.

6 A That's correct.

7 Q All right. Weren't you participating in the game?

8 A Obviously not because I wasn't going to play the game.

9 Q You weren't going to play the game. But you were  
10 raising your voice, correct?

11 A That's correct.

12 Q You were pushing him back, which you acknowledge was  
13 a -- a violation, harassment violation, correct?

14 A That's correct.

15 Q You grabbed his arm, which you acknowledge was a  
16 harassment violation, correct?

17 A That is correct.

18 Q All right. So you were playing the game.

19 A No, I wasn't.

20 Q No?

21 A No.

22 Q Okay. So at what point did it dawn on you that you  
23 were going to call a supervisor?

24 A I believe a few minutes from right now, from this --  
25 where the video stops.

1 Q All right. You want us to run forward to that part?

2 A If you want to.

3 (Video played)

4 Q You said because you're bothering your fucking  
5 neighbors. Correct?

6 A Correct.

7 Q Plural, neighbors. You used the word neighbors. Do  
8 you want to play that again?

9 A Are you asking a question? I'm sorry?

10 Q Yeah, I'm asking you, do you agree that you were --  
11 that you used the word neighbors?

12 A Yes.

13 Q All right. But there -- there were not neighbors,  
14 there was one neighbor, correct?

15 A That's -- I had only one name that dispatch gave me.

16 Q So you don't know when you said neighbors, there was  
17 no basis for saying neighbors, correct?

18 A There's a possibility if somebody else is in  
19 Mr. Gonzalez's house that was annoyed by the noise.

20 Q There was a possibility of that, right?

21 A That's correct.

22 Q You could have determined that if you had done a  
23 proper investigation, correct?

24 A That's correct.

25 Q Yeah, you chose not to do that, correct?

1 A Correct.

2 Q You could have checked with actually other neighbors,  
3 correct?

4 A That's correct.

5 Q And you chose not to do that. Correct?

6 A Correct.

7 Q So when you said to him that he was bothering other  
8 neighbors, there -- you didn't know what you were talking  
9 about, correct?

10 MR. TROY: Objection to form.

11 THE COURT: I'm sorry, Mr. Troy?

12 MR. TROY: Objection to form. It's argumentative.

13 THE COURT: Yeah, Mr. Kopko, I mean we are  
14 arguing, again.

15 MR. KOPKO: We'll move on, your Honor.

16 THE COURT: I want to make sure that you can  
17 elicit the information, but once you have it, arguing with  
18 this witness about what he should have done or shouldn't  
19 have done or could have done, I don't know where that's  
20 going to lead us.

21 MR. KOPKO: I just want -- I'm actually focusing  
22 on the component of maliciousness for the punitive damages,  
23 Judge, I think I have to establish that in the record. From  
24 his behavior.

25 THE COURT: All right. I'll -- I'll allow it,



1 Mr. Kopko. Let's get to it.

2 MR. KOPKO: Thank you, sir.

3 (Video played)

4 BY MR. KOPKO:

5 Q Now, you said get in line. You heard that?

6 A I did hear that.

7 Q All right. You have been sued before?

8 A No, I have not.

9 Q Your statement get in line was not true?

10 A That's correct, it's not true.

11 Q You were lying to Mr. Georgia?

12 A I don't think I was lying. I just said get in line.

13 Q You just admitted that that's not true.

14 A That was not true, that I haven't been sued before?

15 Q That's right.

16 A Right, I have not been sued before.

17 Q So when you told Mr. Georgia to get in line, you were  
18 referring to being sued before, correct?

19 A Yeah, that's correct.

20 Q But you had not been sued before --

21 A Correct.

22 Q -- correct?

23 So what you said to him was a lie.

24 A Okay, if you want to interpret it that way.

25 Q No, I'm asking you, don't you agree that it wasn't

1 true?

2 A Yeah. I guess I will, yeah. I guess it was --

3 Q So it was a lie.

4 A Yeah.

5 Q Now, do you agree that lying to Mr. Davenport would  
6 tend to further escalate the situation?

7 A By lying to myself, is that what you're asking?

8 Q I'm trying to figure out a way so that we can do this  
9 faster. I said do you agree that lying to Mr. Davenport  
10 would escalate the situation?

11 A I guess I'm just confused, sir. I don't --

12 Q I don't want to --

13 A Can you rephrase the question, I guess?

14 Q Well, no. No. Let -- I ask the questions. But I  
15 don't want to confuse you. And his Honor controls  
16 everything, okay. Do you agree, yes or no, that lying to  
17 Mr. Davenport would escalate the situation?

18 A No.

19 Q Do you agree as a professional police officer that you  
20 should not lie to people?

21 A Yeah, I agree with that.

22 Q But yet you lied to Mr. Davenport.

23 A Are you saying I lied to myself? Because I'm  
24 Mr. Davenport.

25 Q Oh.

1 A That's why I'm confused here.

2 Q No. No. No, that -- that's my fault. Georgia.

3 Mr. Georgia. I'm sorry. Yeah. You lied to Mr. Georgia, I  
4 beg your pardon, thank you. Do you agree that lying to  
5 Mr. Georgia escalated the circumstances?

6 A No.

7 Q Do you agree as you, I think you just said that, that  
8 as a professional police officer you should not lie to  
9 people?

10 A That's correct.

11 Q All right. But yet you lied to Mr. Georgia.

12 A That's correct.

13 Q All right. Do you think that had any effect at all on  
14 the circumstances here?

15 A No, I don't.

16 (Video played)

17 Q You were heard to say that do you want to get arrested  
18 or do you want to get in handcuffs. Do you remember saying  
19 that?

20 A No.

21 MR. KOPKO: Play it again.

22 (Video played)

23 BY MR. KOPKO:

24 Q You hear that?

25 A Yes, I did.

1 Q Okay. Do you want to get arrested or get in  
2 handcuffs. That's what I heard. Is that what you heard?

3 A No.

4 Q What did you hear?

5 A Do you want to get arrested or do you want to turn the  
6 music down.

7 Q I thought it said something about handcuffs. No?  
8 Okay. So Mr. Georgia's only alternative at that point was  
9 to get arrested or to turn the music down. Is that correct?

10 A Correct.

11 Q Now, at that particular point, what were you going to  
12 arrest Mr. Georgia for?

13 A Disorderly conduct.

14 Q Disorderly conduct.

15 A Correct.

16 Q But you knew, Deputy, and we talked about this before,  
17 you knew that you could not arrest someone for disorderly  
18 conduct unless you had someone other than yourself --

19 A That's correct.

20 Q -- right?

21 And you agree that you could not legally arrest  
22 Mr. Georgia for disorderly conduct, correct?

23 A No.

24 Q There was no one else immediately present at the scene  
25 when you were there, correct?

1 A That's correct.

2 Q And Mr. Gonzalez wasn't there whispering in your ear  
3 saying that he's complaining, correct?

4 A Correct.

5 Q There was no one else there, there was no member of  
6 the public there, correct?

7 A Correct.

8 Q And you knew that.

9 A Correct.

10 Q Right. And you knew that you could not make a valid  
11 arrest for disorderly conduct without a member of the public  
12 being there, correct?

13 A No.

14 Q No? You thought that you could do that?

15 A Yeah, if someone makes a complaint, when I have that  
16 individual's name.

17 Q But you didn't arrest him for disorderly conduct.

18 A No, I did not.

19 Q You never arrested him for disorderly conduct.

20 A I believe we did charge him for that.

21 Q But not we. Assistant District Attorney Bonavia did  
22 that; you agree?

23 A Yes.

24 Q You did not do that?

25 A That's correct.

1 Q All right. On this night, on this occasion, even  
2 though you're telling him you're going to arrest him for  
3 disorderly conduct, you told him that he was actually under  
4 arrest for disorderly conduct, correct?

5 A No.

6 Q You didn't do that?

7 A I don't believe I did.

8 (Video played)

9 Q I heard you say turn the music down, you're not  
10 understanding.

11 A Correct.

12 Q And that was even your goal here as you were getting  
13 in at it with Mr. Georgia, right?

14 A Correct.

15 Q He had to turn that music down.

16 A That's correct.

17 Q No matter what, he had to turn that music down,  
18 correct?

19 A That's correct.

20 (Video played)

21 Q I heard you say you're bothering everyone else in the  
22 area. Did you hear that?

23 A I did hear that.

24 Q All right. But that's not true, is it?

25 A It's a possibility.

1 Q I didn't ask you that. You had no facts that lead you  
2 to believe that he was bothering everyone else in the area.

3 Is that --

4 A That's correct, no other facts.

5 Q All right. So when you made that statement to  
6 Mr. Georgia, it was lie, correct?

7 A No.

8 Q You had no factual basis for saying that, correct?

9 A That's correct.

10 Q All right. You were just angry.

11 A I was not angry.

12 Q You were not angry?

13 A No.

14 Q What is your state of mind here now?

15 A I'm a little nervous.

16 Q A little nervous?

17 A Yep. And fearful.

18 Q And fearful. Okay. Wow. But yet you didn't just  
19 turn around and walk away. Correct?

20 A That's correct.

21 Q So you're nervous and you're fearful, but you stay  
22 right there, correct?

23 A That's correct.

24 Q And you agree that your nerves could have been quelled  
25 and your fear could have been extinguished if you just

1 walked away, correct?

2 A That's correct.

3 Q And you chose not to do that.

4 A Correct.

5 (Video played)

6 Q Okay. You said you were calling your supervisor right  
7 now.

8 A Correct.

9 Q Is that what you said?

10 A Yes.

11 Q Who -- and you called Sergeant Vann?

12 A Correct.

13 Q All right. Now, you turned off your video recorder  
14 when you made that call.

15 A Uh-huh. That's correct, sorry.

16 Q But you told us earlier that you're not supposed to  
17 turn off your video recorder when you're having a contact  
18 with a person involved in an incident.

19 A That's correct.

20 Q So you violated departmental policy when you turned  
21 off your audio.

22 A No, I didn't.

23 Q No, you didn't?

24 A No.

25 Q All right. Well, I'm a little confused. Maybe we'll



1 go through this again. You're aware --

2 THE COURT: Mr. Kopko, just a suggestion. I have  
3 a tough time hearing --

4 MR. KOPKO: I'm sorry, Judge.

5 THE COURT: -- if you're not near the microphone.  
6 I just want to make sure the court reporter's getting  
7 everything. And also that we all can hear it, so. If you  
8 do move over, just keep in mind you're probably not going to  
9 be heard.

10 BY MR. KOPKO:

11 Q So you told us that you know the departmental policy  
12 requires you to keep on the audio portion and the video  
13 portion when you're in a contact, correct?

14 A Correct.

15 Q And you were certainly in a contact with Mr. Georgia,  
16 correct?

17 A When I made the phone call to Sergeant Vann, is that  
18 what you're talking about?

19 Q You were standing right there, correct?

20 A That's correct.

21 Q I -- I can see your phone. You were right there.  
22 Correct?

23 A That's correct.

24 Q So even though you know you're not supposed to turn  
25 off the audio, you turned it off, correct?

1 A I could turn it off in this situation.

2 Q Well, I'm confused here, Deputy. You told us several  
3 times you know you can't turn off the audio when you're  
4 having a contact, right?

5 A Correct.

6 Q Okay, then we have that part done, correct?

7 A That's correct.

8 Q All right. But yet you turned off your audio,  
9 correct?

10 A Correct.

11 Q And in doing that, you violated the departmental  
12 policy.

13 A No.

14 Q No. Okay. Now, you understand that you have taken an  
15 oath to tell the truth, the whole truth, and nothing but the  
16 truth, correct?

17 A That's correct.

18 Q And you understand that you're under oath here now in  
19 front of a federal judge.

20 A I do, yes.

21 MR. TROY: Your Honor, it's an improper question.  
22 He should ask fact questions, please.

23 THE COURT: Yeah, Mr. Kopko, I think Mr. Troy is  
24 getting that you're starting to ask him about the legality  
25 of something or not as far as the oath, but I'm not sure

1 where you're going with this, unless there's a factual  
2 question you're going to ask him about what he said or  
3 didn't say or contradicted himself on.

4 BY MR. KOPKO:

5 Q What did you say to Sergeant Vann?

6 A I asked him --- I don't even think I got a -- I  
7 didn't -- I didn't even get ahold -- I didn't get ahold of  
8 him on the phone. He never answered the phone.

9 Q Did you text him?

10 A No.

11 Q Did you ever communicate with Sergeant Vann?

12 A Until he got on scene, no.

13 Q How did Sergeant Vann know to come to the scene?

14 A He knew where I was at, and I tried to call him  
15 multiple times, and he also heard on the radio transmission  
16 that I called for another unit.

17 Q You tried calling Vann multiple times?

18 A Maybe just once. I can't recall. I just know I  
19 definitely tried calling him.

20 Q Deputy, I'm confused by your testimony. Did you call  
21 him multiple times or did you call him one time?

22 A I don't recall.

23 Q That was the answer, all right? And you did not text  
24 him. Is that correct?

25 A I don't recall that either. I don't believe I did.

1 Q The phone that you were using, is that your personal  
2 phone?

3 A That's correct.

4 Q Are you issued a departmental phone?

5 A No.

6 Q Do any of the deputies use departmental phones?

7 A Yes, some of them do.

8 Q Okay. Do most of them use their personal phones?

9 A That's correct.

10 Q And they text on those personal phones?

11 A That's correct.

12 Q Are those text messages preserved to be delivered as  
13 part of discovery?

14 A Yes.

15 Q Did you make any text messages here in this case? In  
16 this whole case?

17 A I don't believe I did.

18 (Video played)

19 Q Now, tell us what you said, what you said there.

20 A You need to back the fuck up.

21 Q You were angry then, right?

22 A I was definitely scared.

23 Q I didn't ask you that.

24 A No, I wasn't angry.

25 Q You weren't angry.

1 A No.

2 Q I heard you say you're going to back the fuck up.

3 A Uh-huh. That's correct.

4 Q And you said that you were fearful?

5 A Yes.

6 Q And you have on a gun, correct?

7 A That's correct.

8 Q You have on a Taser, correct?

9 A That's correct.

10 Q Right. You had pepper spray?

11 A That's correct.

12 Q Right?

13 You were trained as a police officer in dealing  
14 with unruly people, correct?

15 A That's correct.

16 Q You didn't see any visible weapons on Mr. Georgia,  
17 correct?

18 A That's correct.

19 Q You didn't pat him down, though, correct?

20 A That's correct.

21 Q You could -- you knew that you could pat him down for  
22 your own safety, correct?

23 A Correct.

24 Q You know that the United States clearly allows that  
25 for officer safety, correct?

1 A Correct.

2 Q But you never did that.

3 A Correct.

4 Q You could have addressed your concerns about being  
5 fearful if you had simply patted Mr. Georgia down, right?

6 A No.

7 Q That wouldn't have done it for you?

8 A No.

9 Q So when you said you're going to back the fuck up,  
10 right, did you push him right then --

11 A Yeah.

12 Q -- is that when you pushed him?

13 A I believe so, yeah.

14 Q And he fell to the ground.

15 A Correct.

16 Q Now, in the instant before you said you're going to  
17 back the fuck up, right, you agree that you could have  
18 de-escalated this by just turning around, right?

19 MR. TROY: Excuse me, I didn't hear that question.

20 THE COURT: I'm sorry, Mr. Troy?

21 MR. TROY: I did not hear the last part of his  
22 question.

23 BY MR. KOPKO:

24 Q That -- that you could have de-escalated this by just  
25 turning around, right?

1 A Are you trying to ask turning around and walking away  
2 or turning --

3 Q Yeah.

4 A Okay. Yes.

5 Q You tried to call your supervisor, correct?

6 A Correct.

7 Q You were looking for guidance, correct?

8 A Correct.

9 Q You were confused about what to do, correct?

10 A That's correct.

11 Q You didn't know how to handle the situation, correct?

12 A Correct.

13 Q All right. You were looking for guidance, correct?

14 A Correct.

15 Q And you knew that all you had to do was just turn  
16 around and walk or walk away or walk backwards, and that  
17 would have addressed your concerns about being fearful,  
18 correct?

19 A No.

20 Q That would not have?

21 A It would have but I didn't believe I could just walk  
22 away.

23 Q Well, you certainly know that you could have said to  
24 Mr. Georgia, you know what, I -- I beg your pardon, I heard  
25 you say several times for me to get off your property, and

1 I'm going to do that now, and I'm sorry. You could have  
2 done that.

3 A Correct.

4 Q All right. But you didn't do that.

5 A That's correct.

6 Q You chose to stay there and escalate the  
7 circumstances. Correct?

8 A Try to de-escalate the circumstances, so no.

9 Q I didn't ask you that.

10 A Okay.

11 Q I didn't ask you. You chose to stay there and  
12 escalate the circumstances by pushing Mr. Georgia backwards.

13 MR. TROY: Objection to form.

14 THE COURT: I'll allow it. You've asked three  
15 times but I'll allow it one more time so we can get an  
16 answer from the witness.

17 A Can you repeat the question?

18 BY MR. KOPKO:

19 Q You chose to stay there and escalate the situation by  
20 pushing Mr. Georgia backwards. Is that correct?

21 A No.

22 Q Did you believe that pushing him backwards would  
23 escalate the circumstances?

24 A No.

25 Q Did you believe that pushing him to the ground would



1     escalate the circumstances?

2     A       No.

3     Q       In your experience, pushing someone to the ground  
4     would not -- would not tend to escalate the circumstances?  
5     Is that correct?

6     A       I don't know. It may or may not.

7     Q       If someone pushed you to the ground, would that, in  
8     your mind, escalate it?

9     A       It depends on how big the person is that pushed me to  
10    the ground.

11    Q       So if a person bigger than you pushed you to the  
12    ground, you would -- would that escalate it?

13    A       No.

14    Q       If a person smaller than you pushed you to the ground,  
15    would that escalate it?

16    A       Possibly.

17    Q       And the deciding factor is what you thought you could  
18    do in response to that?

19    A       Can you repeat the question?

20    Q       Yeah. Your response in deciding whether it's  
21    escalated or not would be determined by the size of the  
22    person. Is that what you're telling us?

23    A       If I was being pushed to the ground.

24    Q       Yeah.

25    A       Possibly.

1 Q Did you -- did you have any concerns that by pushing  
2 Mr. Georgia to the ground that you could injure him?

3 A Yeah.

4 Q But you pushed him anyway.

5 A Correct.

6 Q And when he was on the ground, right, you went over  
7 and handcuffed him.

8 A Correct.

9 Q Now, you filed a written report of this incident,  
10 correct?

11 A Correct.

12 Q And you learned in the police academy to make proper  
13 reports, correct?

14 A That's correct.

15 Q And you learned that the reports that you make would  
16 be relied upon by the prosecuting attorneys in making  
17 prosecutorial decisions, correct?

18 A Correct.

19 Q And you knew that the reports had to be accurate,  
20 right?

21 A Correct.

22 Q And you knew that judges would be relying upon your  
23 reports for accuracy, right?

24 A Correct.

25 Q And you made no entry in your report that you checked

1 for the tightness of the handcuffs by putting your finger in  
2 between the jaw and the wrist, correct?

3 A Correct.

4 Q And you know that the Tompkins County policy for  
5 handcuffs requires you to do that, correct?

6 A Correct.

7 Q So when you put the handcuffs on and you did not check  
8 the tightness of them, you knew that you were violating the  
9 departmental policy, correct?

10 A I didn't know at that time, no.

11 Q Well, weren't you trained before they gave you a gun  
12 and sent you out? Weren't you trained?

13 A Yeah.

14 Q And you knew that you had to check the tightness of  
15 the handcuffs, correct?

16 A I did not know that, no. At that time.

17 Q Don't you read the departmental policies?

18 A Yeah. Yep.

19 Q Do you read the part of the departmental policy that  
20 requires you to put your little finger in between the jaw  
21 and the wrist?

22 A I don't recall reading that.

23 Q You don't recall that.

24 A No.

25 Q In any event, you made no attempt to determine how

1     tight the handcuffs were, correct?

2     A       Correct.

3     Q       And you know that by cranking down the handcuffs,  
4     people can suffer a severe injury, correct?

5     A       That's correct.

6     Q       And you made no attempt to check whether that was  
7     happening, correct?

8     A       No, I did make an attempt.

9     Q       You did make an attempt?

10    A       Correct.

11    Q       Oh, well, let's see it.

12                (Video played)

13    Q       Now, you say that in that sequence you checked the  
14    tightness of the handcuffs?

15    A       No, I did not.

16    Q       Now, in that same sequence, Mr. Georgia is on the  
17    ground, correct?

18    A       Correct.

19    Q       He's highly intoxicated --

20    A       Correct.

21    Q       -- correct?

22                He has his back facing you, correct?

23    A       Correct.

24    Q       And you pull out your pepper spray, correct?

25    A       Correct.

1 Q And you try to pepper spray him, correct?

2 A No.

3 Q I can see you pushing on the -- the lever to do that.  
4 That's not what you're doing?

5 A That's not what I'm doing.

6 Q I can see you on several occasions shaking the  
7 canister. Are you not trying to spray him?

8 A No.

9 Q What were you doing?

10 A Trying to get his hands behind his back.

11 Q No.

12 MR. KOPKO: Play that again.

13 (Video played)

14 Q Now, you have the canister in your left hand, correct?

15 A Correct.

16 Q And your thumb is on the top of the canister, correct?

17 A Correct.

18 Q And that, that is where the discharge valve is for the  
19 pepper spray, correct?

20 A The discharge valve is underneath that, so no.

21 Q No? Aren't you then trying to pepper spray him?

22 A No.

23 Q Why do you have it out?

24 A If he's going to start to fight with me, then I have  
25 it out ready to utilize it.

1 Q Yeah, but he's on the ground, right?

2 A Yeah.

3 Q He's intoxicated, right?

4 A Correct.

5 Q He's a 62-year-old man, right?

6 A I didn't know that at the time.

7 Q No, he told you that earlier. You want -- do you want  
8 to replay that?

9 A If you want.

10 Q Not what I want, do you want it?

11 A No.

12 Q And he's on the ground with his back to you, and  
13 you're attempting to pepper spray him, correct?

14 A No.

15 Q Well, why do you even have it out?

16 A Like I said before, in case he tries to fight with me,  
17 then I have it ready to utilize.

18 Q Well, instead of taking out the pepper spray, why --  
19 why didn't you just handcuff him then?

20 A I couldn't get his hands.

21 Q You can't get his hands when you had your one hand  
22 filled with pepper spray, can you?

23 A That's true.

24 Q So you didn't want to handcuff him at that time,  
25 correct?

1 A No; I did want to handcuff him at that time.

2 Q Well, why even bring out the pepper spray? Why didn't  
3 you use your hands, your two hands, and handcuff him?

4 A I believe I tried, and he was tensing all of his  
5 muscles up and I couldn't get both hands behind his back.

6 Q But you didn't have any trouble getting both hands  
7 behind his back when you put the pepper spray away?

8 A That's correct.

9 (Video played)

10 Q Now, is it your testimony that you're not trying to  
11 pepper spray him there?

12 A That's correct.

13 Q Well, if -- if you're not trying to pepper spray him  
14 and he's right in front of you on the ground, tell us why  
15 you even have it out.

16 A Like I said before, in case he tries to fight with me,  
17 I'll have it out ready to utilize if I needed it. He was --  
18 had all his muscles tensed up, I was trying to get his hands  
19 behind his back, and he wouldn't put his hands behind his  
20 back.

21 Q Let me see that I follow this. You can't get his  
22 hands behind his back because of the pepper spray in your  
23 arm, right? In your hand.

24 MR. TROY: Objection, your Honor.

25 THE COURT: I'm sorry, Mr. Troy, objection over?

1 MR. TROY: I'm sorry?

2 THE COURT: Objection as to?

3 MR. TROY: It assumes a fact that he didn't  
4 testify to.

5 THE COURT: I'm not sure I heard the same thing.  
6 Mr. Kopko?

7 MR. KOPKO: I didn't either, Judge. Let me try it  
8 again.

9 THE COURT: Plus, I think Mr. Kopko is asking a  
10 long question. I think he was kind of in the middle of it  
11 so that's why I'm not sure. I don't think I heard the whole  
12 question yet.

13 MR. KOPKO: Indeed, let me try this.

14 THE COURT: And again, because we don't have a  
15 jury here, it's okay if you let the question all come out  
16 and then there was an objection, we'll it take it up, but.  
17 BY MR. KOPKO:

18 Q Okay. So you say in this sequence what you really  
19 want to do is get him handcuffed. Is that correct?

20 A That's correct.

21 Q So instead of getting the handcuffs out, you get the  
22 pepper spray out. Is that what you're saying?

23 A I tried to get his hands behind his back before I got  
24 the pepper spray out. And he wouldn't give me his hands.  
25 So I got the pepper spray out.



1 Q So you got the pepper spray out.

2 A Correct.

3 Q And then you put the pepper spray away?

4 A That's correct.

5 Q These movements that you're making with the canister,  
6 you're -- you're saying that you're not trying to activate  
7 the pepper spray?

8 A That's correct.

9 (Video played)

10 Q Now, in this sequence you have handcuffed him, right?

11 A Correct.

12 Q It didn't appear where you were having any particular  
13 difficulty in handcuffing him. Did you say that occurred?

14 A Yeah, it did.

15 Q It did?

16 A Yeah.

17 Q What -- I don't see it. What -- what was it that you  
18 said happened?

19 A He wouldn't give me his hands, he had all of his  
20 muscles tightened up, and when I told him to put his hands  
21 behind his back he wouldn't, and. So it was difficult for  
22 me to physically move his arms behind his back.

23 Q Difficult.

24 A Yes.

25 Q How old were you when this happened?

1 A 2019, I was 28.

2 Q 28. You're a young strong guy, right, a deputy.  
3 You're saying you couldn't put the arm of a 62-year-old  
4 drunk guy's arm behind him?

5 A That's correct.

6 Q But you got it behind him.

7 A I did, yeah.

8 Q Within a couple of seconds of this shows that you got  
9 him handcuffed, right?

10 A Correct.

11 Q You didn't have to do anything other than pull his arm  
12 behind his back, right?

13 A Once he untensed his muscles, then yes.

14 Q That's all it was, you just pulled his arm behind his  
15 back and handcuffed him, right?

16 A Yeah. Eventually I did.

17 Q Eventually. Like we're talking about seconds here.  
18 This only took you a couple seconds, right?

19 A Yes.

20 (Video played)

21 MR. KOPKO: I beg your pardon, may I leave the  
22 courtroom for a brief second?

23 THE COURT: Oh, absolutely. I mentioned to I  
24 believe one of your colleagues, you guys can get up and  
25 leave and come back. Again, we don't have a jury here, so.

1 MR. KOPKO: I just need to go to the men's room  
2 right here.

3 THE COURT: Do you want to take a short break,  
4 Mr. Kopko?

5 MR. KOPKO: Five minutes, would that be --

6 THE COURT: Absolutely. Why don't we take a  
7 five-minute break. Is that okay?

8 MR. TROY: That's fine.

9 MR. KOPKO: Five minutes. Thanks, Judge.

10 THE COURT: Deputy, you can just have a seat over  
11 at the table and take a break too, go to the bathroom, or.

12 (Recess taken)

13 THE COURT: All right, we're back from the break.  
14 Mr. Kopko and Mr. Troy, just to let you know, my intention  
15 was to break for lunch at 12:30-ish, unless one of you says  
16 hey, we're going to finish up this witness in 5 or 10  
17 minutes, whatever. So we got another 45 minutes. Does that  
18 sound good?

19 MR. KOPKO: Thank you, sir.

20 MR. TROY: And there's a restriction today. What  
21 time does that take effect?

22 THE COURT: Oh. Oh. Oh, the real restriction.  
23 I'm just checking to make sure. I have a detention hearing  
24 at 3 p.m.

25 MR. TROY: Okay.

1 THE COURT: And it involves an interpreter so I  
2 know from past experience that will -- excuse me, it's a  
3 plea, it was going to be a detention hearing but the  
4 individual is pleading guilty. So that takes about an hour  
5 and a half for the entire process with an interpreter, so my  
6 thinking is we will break for this trial ten minutes of  
7 three, wherever we are.

8 MR. TROY: Okay.

9 THE COURT: Mr. Kopko, you may continue.

10 MR. KOPKO: Thank you, sir. We're trying to get a  
11 particular segment of the video.

12 THE COURT: Okay.

13 MR. KOPKO: We had it marked but it's not in the  
14 same sequence, the same synchronized.

15 THE COURT: When you get it, Mr. Kopko, you can  
16 start, take your time. Get it where you need to be.

17 (Video played)

18 BY MR. KOPKO:

19 Q Deputy, let me see if I can save some time here.

20 MR. TROY: I couldn't hear.

21 MR. KOPKO: I'm sorry.

22 THE COURT: Use the microphone, Mr. --

23 MR. KOPKO: I should not have done that.

24 We're trying to find this.

25 BY MR. KOPKO:

1 Q Deputy, do you remember saying if you don't shut up or  
2 you don't be quiet I'm going to pepper spray you?

3 A I don't.

4 Q Then we've got to find that.

5 (Video played)

6 Q So, Deputy, at this point I hear you saying you're  
7 going to shut the fuck up, okay? You're saying that.

8 A Correct.

9 Q All right.

10 THE COURT: Mr. Kopko, just pull the microphone to  
11 the side. Even if you put it to the side, it will help.

12 MR. KOPKO: Jason told me.

13 BY MR. KOPKO:

14 Q You're saying shut the fuck up, you're going to shut  
15 the fuck up, right?

16 A I did say that, correct.

17 Q Now, at this point, Deputy, you know that you have  
18 absolutely no authority as a law enforcement officer to tell  
19 someone to shut the fuck up, correct?

20 A Correct.

21 Q So when you're telling him to shut the fuck up, you  
22 knew that that was not true.

23 A Correct.

24 Q And you knew that you had no authority to say that --

25 A Correct.

1 Q -- right?

2 But yet you repeat it several times, correct?

3 A Correct.

4 Q Now, Deputy, in this part of the sequence here when  
5 you're yelling like that, and you're pushing him backwards,  
6 you are uncontrollably angry, correct?

7 A No.

8 Q You are unaware of your surroundings. Is that  
9 correct?

10 A That is correct.

11 Q All right. And you don't even realize that the music  
12 has stopped playing. Is that correct?

13 A That's correct.

14 Q And the whole purpose of you coming there before you  
15 told Mr. Georgia to shut the fuck up, before you pushed him  
16 backwards, before you handcuffed him, you did not realize  
17 that the music was not playing. Is that correct?

18 A Can you repeat? Can you repeat the question?

19 Q Deputy, do you agree that when you told Mr. Georgia to  
20 shut the fuck up, when you pushed him backwards, when he  
21 landed on the ground, when you handcuffed him, you were so  
22 angry that you did not realize that the music had stopped.  
23 Is that true or not?

24 A That's not true.

25 Q That's not true. Okay. When did you realize that the

1 music stopped playing?

2 A After I got Mr. Georgia in handcuffs.

3 Q In handcuffs.

4 A That's correct.

5 (Video played)

6 Q Could you tell on that in the last couple of seconds  
7 there that the music stopped?

8 A No.

9 Q You couldn't tell that?

10 A No.

11 (Video played)

12 Q Deputy, do you hear the music in the background in  
13 that sequence?

14 A I do.

15 Q You do?

16 A Yes.

17 Q What -- maybe I -- your hearing is probably more acute  
18 than mine. Can you -- we're going to play this again. Can  
19 you tell me when you think the music stops --

20 A Okay.

21 Q -- please?

22 (Video played).

23 Q You still hear music?

24 A I heard music in that sequence.

25 MR. KOPKO: Keep going.

1 (Video played)

2 A Right there.

3 BY MR. KOPKO:

4 Q Right there? All right. You told us several times  
5 that your whole goal here was to stop the music --

6 A That's correct.

7 Q -- right?

8 That's why you were there, right?

9 A That's correct.

10 Q You don't want to do anything else but stop the music,  
11 right?

12 A That's correct.

13 Q You're not going to leave until the music is stopped.  
14 Correct?

15 A Till it's turned down. So no, it's not correct.

16 Q Well, the music stopped, right?

17 A At that point, yes.

18 Q Yeah, okay. Well, the music stopping, you'll -- and  
19 for your purposes is much better than the music being turned  
20 down, correct?

21 A Doesn't matter to me.

22 Q Doesn't matter to you. So there's no music, right?

23 A Correct.

24 Q And whatever purpose you had was fulfilled because  
25 there's no music, right?



1 A Correct.

2 Q And at that point you just needed to leave. Right?

3 A Correct.

4 Q But you didn't do that.

5 A No.

6 Q You pushed him backwards onto the ground, right?

7 A Correct.

8 Q You threatened to pepper spray him if he didn't shut  
9 up, correct?

10 A I don't believe I said that.

11 Q Yeah, but you didn't stop talking, you said, you  
12 threatened to pepper spray him?

13 A I don't believe I said that. I might be wrong.

14 Q You handcuffed him, right?

15 A Correct.

16 Q You didn't check on the tightness of the handcuffs,  
17 correct?

18 A Correct.

19 Q You called your supervisor --

20 A Correct.

21 Q -- right?

22 Supervisor came to the scene?

23 A Correct.

24 Q Another heavy-set deputy came over there. Who was  
25 that?

1 A Deputy Murray.

2 Q Deputy Murray?

3 A That's right.

4 Q Okay. He came over there too. So now we have three  
5 deputies on the scene, correct?

6 A Two deputies and a sergeant.

7 Q Oh, okay. Thank you. We have three law enforcement  
8 personnel on the scene.

9 A Correct.

10 Q We have Mr. Georgia on the ground in handcuffs.  
11 Correct?

12 A That's correct.

13 Q And no music playing.

14 A That's correct.

15 Q And you could have, if you wanted to, you could have  
16 just said to Sergeant Vann, look, the music's off, why don't  
17 we just drop this whole thing. You could have said that.

18 A That's correct.

19 Q But you didn't do that.

20 A No.

21 Q You dragged him down the driveway, right?

22 A No.

23 Q He wasn't walking.

24 A Yes, he was.

25 Q You were partially dragging him --

1 A No.

2 Q -- right?

3 You took him to the sheriff's station, right?

4 A Correct.

5 Q Handcuffed? And you booked him there, right?

6 A Correct.

7 Q And you took him up to CMC, correct?

8 A Correct.

9 Q And you just left him there.

10 A No.

11 Q Did you stay with him at CMC?

12 A No.

13 Q You just left him there, right?

14 A No.

15 Q You took him to CMC and then you left --

16 A That's correct.

17 Q -- correct? You left him there.

18 A That's correct.

19 Q Okay, well, I asked you that three times and you said  
20 no.

21 A Okay.

22 Q You -- you left him at CMC.

23 A That's correct.

24 Q Now.

25 (Video played)

1 Q You said to Mr. Georgia you need to fuck the shut --  
2 you need to shut the fuck up, okay. In a very animated way.  
3 Do you remember, did you see that part?

4 A I did.

5 Q Yeah. That was different than the tone that you were  
6 using before. Did something happen that you changed your  
7 affect and your tone?

8 A Yes.

9 Q And what happened was that you had pushed him over,  
10 right?

11 A No.

12 Q What happened was that you handcuffed him, correct?

13 A No.

14 Q What happened was that you just got sick and tired of  
15 him challenging you, correct?

16 A No.

17 (Video played)

18 Q Now, I hear Mr. Georgia saying put the handcuffs on.  
19 Do you hear that too?

20 A I do.

21 Q All right. And I hear the click of a ratchet of the  
22 handcuffs. Do you hear that?

23 A I do.

24 Q So he's just telling you to put the handcuffs on, and  
25 he's cooperating with you, correct?

1 A Correct.

2 Q So this business about you saying, you know, he --  
3 you're struggling to put the handcuffs on, that's not true?

4 A Before he put his hands behind his back I was.

5 Q You were. When it actually came time to put the  
6 handcuffs on, he didn't resist you at all.

7 A No. Not at that point.

8 (Video played)

9 Q Now, you said that he was being aggressive, right?

10 A Correct.

11 Q Being aggressive is not a crime.

12 A Correct.

13 (Video played)

14 Q Now, I heard you say that you be quiet, right?

15 A That's correct.

16 Q That's because you're angry and irritated at  
17 Mr. Georgia, correct?

18 A No.

19 Q You recognize and you agree that he has the right to  
20 say whatever he wants to say, right?

21 A That's correct.

22 Q And you recognize and agree that you have no right  
23 whatsoever to tell him to be quiet.

24 A If he is being too loud bothering the other neighbors,  
25 it's a continuous noise complaint.

1 Q Oh. So did you get another complaint from the  
2 neighbors in the meantime?

3 A No.

4 Q Well, what are you talking about? There was no  
5 complaint from the neighbors, correct?

6 A Correct.

7 Q You're just imagining that, correct?

8 MR. TROY: Objection, your Honor, argumentative.

9 THE COURT: Yeah, Mr. Kopko, we're starting to get  
10 into, you know, arguing with the witness about he tells you,  
11 and he told you what is in his mind, I mean. After that,  
12 you can make the arguments to the Court, but it doesn't  
13 really do any good to argue with the witness to say that  
14 could not have been in your mind or that wasn't the reason.

15 MR. KOPKO: Thank you for that guidance, your  
16 Honor.

17 Go ahead.

18 (Video played)

19 BY MR. KOPKO:

20 Q Excuse me, just, who -- who just walked up there with  
21 the flashlight?

22 A That's Sergeant Vann.

23 (Video played)

24 Q Now, Deputy, afterwards --

25 MR. KOPKO: This is Exhibit 30. Exhibit 30, your

1 Honor.

2 THE COURT: Okay. So you're going to Exhibit 30  
3 now, Mr. Kopko?

4 MR. KOPKO: Yes, sir. Yes, sir.

5 THE COURT: Okay.

6 BY MR. KOPKO:

7 Q Do you see Exhibit 30?

8 A I do.

9 Q Now, this is a subject management report that you  
10 filled out regarding the arrest that we've been talking  
11 about, right?

12 A Correct.

13 Q And you arrested Mr. Georgia for resisting arrest,  
14 right?

15 A That's correct.

16 Q And for obstruction of governmental administration.  
17 Two -- two offenses. Right?

18 A That's correct.

19 Q Now, and incidentally, both of those offenses were  
20 dismissed by the Lansing Town Court, correct?

21 A I believe so.

22 Q Now, in this report in Roman Numeral III at about the  
23 top third of the page --

24 MR. TROY: Can Counsel speak just a little louder?  
25 I'm not getting --

1 THE COURT: Really important to use the  
2 microphones.

3 MR. KOPKO: I got to. I'm actually doing that  
4 intentionally so Bill can't hear anything.

5 MR. TROY: I suspected as much.

6 THE COURT: Well, it might carry over to the Court  
7 too. I'm not sure we're too far apart in ages here, any of  
8 us.

9 MR. TROY: Counsel's actually three times older  
10 than we are.

11 THE COURT: Just for the record, these are all pun  
12 jokes.

13 MR. KOPKO: Yes.

14 THE COURT: We can do that when there's no jury.

15 MR. KOPKO: Yes, indeed. And that's quite an  
16 indulgence, your Honor, that I very much appreciate.

17 BY MR. KOPKO:

18 Q So in Roman Numeral Number III, I'm about the top  
19 third of the page, do you see resistance information?

20 A I do.

21 Q All right. Now, you know that when you're completing  
22 this, you have an obligation as a police officer to provide  
23 accurate and complete information, right?

24 A That's correct.

25 Q And do you remember testifying in your examination



1 before trial?

2 A I do.

3 Q Yeah. And do you remember saying that this report was  
4 false in some remarks?

5 A Yes, I do.

6 Q Now, with regard to Roman Numeral Number III, subject  
7 resisted by, check all that apply and explain in a  
8 narrative. Right?

9 A Correct.

10 Q So you -- you checked that he resisted verbal --

11 A Correct.

12 Q -- right?

13 Now, you understand from your training and law  
14 enforcement education that resisting verbally can never  
15 constitute resisting arrest. You understand that?

16 A Correct.

17 Q And then you described in that section that there were  
18 verbal threats. Verbal threats.

19 A Correct.

20 Q Now, I -- I listened to the tape. What -- what verbal  
21 threats are you talking about?

22 A When Mr. Georgia said I will fuck you up.

23 Q You considered that to be a verbal threat?

24 A I do.

25 Q Do you think that you prompted that by your

1 high-handed techniques here?

2 MR. TROY: Objection, your Honor.

3 THE COURT: No, I'm going to allow it. I think  
4 Mr. Kopko's trying to get the witness to tell him what his  
5 state of mind and his actions were in relation to what he  
6 heard or allegedly heard the plaintiff say, so I'm going to  
7 allow it.

8 A Could you repeat the question?

9 BY MR. KOPKO:

10 Q In light of the objection I'm just going to withdraw  
11 that.

12 The other thing that you checked off was passive  
13 resistance. Do you see that?

14 A Yes, I do.

15 Q Now, you know under New York Law that simple passive  
16 resistance can never constitute resisting arrest, correct?

17 A Correct.

18 Q And you know that you have the obligation on this form  
19 to put down all of the information that you were relying  
20 upon to justify your actions, correct?

21 A Correct.

22 Q And in the Roman Numeral Number IV part, it says  
23 tactic -- tactics information. Describe additional  
24 information in SMR narrative as necessary. So this  
25 describes what you were doing, you -- you were giving verbal

1 commands. Is that right?

2 A That's correct.

3 Q And you used an open hand, a bar? Is that -- is that  
4 where you grabbed his arm and shoved him backwards twice, is  
5 that what you're referring to?

6 A Yes.

7 Q Now, and you indicate pepper spray displayed. And  
8 then that it was effective. Right?

9 A Correct.

10 Q What do you mean by that?

11 A When I had the pepper spray, all his muscles were  
12 tensed, and then when I threatened to use pepper spray he  
13 loosened up his muscles and I was able to holster my pepper  
14 spray up and put him in handcuffs.

15 Q But it didn't look to me as though he even saw the  
16 pepper spray. Do you know that he saw the pepper spray?

17 A I don't know that he saw it or not.

18 Q Now, in the Roman Numeral V, you acknowledge that  
19 Mr. Georgia was injured in this incident, correct?

20 A That's correct.

21 Q And you write subject obtained lacerations on his  
22 wrists due to him struggling after proper application of the  
23 handcuffs --

24 A Correct.

25 Q -- right?

1           Now, I saw all of that. I mean we all saw it.  
2 Mr. Georgia was not struggling. Do you want to see that  
3 again?

4 A       No, I don't want to see it again.

5           I can explain what that means, if you want me to.

6 Q       No, I ask the questions.

7 A       Okay.

8 Q       You wrote that he was struggling after proper  
9 application of the handcuffs, and we -- we all saw it, and  
10 he was not struggling. That's a false statement, isn't it?

11 A       No, it's not.

12 Q       In the narrative part in Roman Numeral Number VII, you  
13 wrote, open quote, I then unholstered my department-issued  
14 OC spray and told the subject that if he did not place his  
15 hands behind his back then he would be sprayed, closed  
16 quote. I -- I saw that, I listened to it. I didn't hear  
17 you say that. Is that a true statement?

18 A       We can watch the video again, just to double-check.

19 Q       I didn't ask you that. Did you say that to him?

20 A       I don't recall. I may have.

21 Q       Well, you wrote it here, right?

22 A       Correct.

23 Q       You -- you wouldn't write something in the report that  
24 was intentionally false?

25 A       That's correct.

1 Q So either this is false or your recollection that you  
2 testified to is false. Do you know which is true?

3 A I don't.

4 MR. KOPKO: A brief indulgence, your Honor.

5 THE COURT: Certainly.

6 (Pause in proceedings)

7 BY MR. KOPKO:

8 Q Now, Deputy, you answered my question that you -- that  
9 you knew that passive resistance could never support a  
10 charge for resisting arrest, correct?

11 A Correct.

12 Q But you nevertheless charged him with resisting  
13 arrest, correct?

14 A That's correct.

15 Q And when you charged him with resisting arrest, you  
16 knew that there was no probable cause under New York Law to  
17 do so.

18 A No.

19 Q You did not describe any other behaviors in justifying  
20 the arrest other than these three. You agree with that?

21 A I do.

22 Q All right. And you agree that none of these three  
23 categories that you checked off are justification for a  
24 resisting arrest charge?

25 A That's correct.

1 Q And you didn't put anything else down.

2 A That's correct.

3 Q Now, you also charged him with obstruction of  
4 governmental administration, correct?

5 A That's correct.

6 Q And you know that in order to sustain that charge  
7 there has to be a proper governmental administration,  
8 correct?

9 A That's correct.

10 Q And you admitted in response to questions that you had  
11 no authority under the Lansing ordinance because there was  
12 no ordinance. Is that correct?

13 A That's correct.

14 Q And you obviously knew, because of the multiple  
15 commands, that you were being ordered to get off the  
16 property, correct?

17 A That's correct.

18 MR. KOPKO: Just a brief indulgence, your Honor.

19 THE COURT: Certainly.

20 (Pause in proceedings)

21 (Video played)

22 BY MR. KOPKO:

23 Q Deputy, in the early part of your encounter with  
24 Mr. Georgia, you -- and we saw it, I don't want to go back  
25 to that, but you put your hand on his chest and you pushed

1 him back, right, that's --

2 A Correct.

3 Q -- that's the first time that you pushed him?

4 A Yeah, that's correct.

5 Q All right. And then later on in what we just saw, you  
6 actually shoved him again. Correct?

7 A That's correct.

8 Q And then you shoved him a third time, and that third  
9 time knocked him to the ground, correct?

10 A That's correct.

11 THE COURT: Just, Mr. Kopko, for the record, you  
12 just showed Exhibit -- part of Exhibit 30 again, right?

13 MR. KOPKO: Yes, sir.

14 THE COURT: Okay, just --

15 MR. KOPKO: Yes.

16 THE COURT: -- I just want to make sure the  
17 record's clear as to what the witness is answering your  
18 questions as to.

19 MR. KOPKO: Jason's telling me that the video is,  
20 excuse me, 14, Exhibit 14.

21 THE COURT: I'm sorry. I misspoke. I apologize.  
22 I'm thinking Exhibit 30 was the last Exhibit 14 video which  
23 we had been watching previous questioning. You just played  
24 part of it again for the witness, and that was his answer  
25 response. Right. Thank you.

1 BY MR. KOPKO:

2 Q And, Deputy, you shoved Mr. Georgia three times  
3 because you were angry at him, correct?

4 A No.

5 Q You shoved him three times because you were tired of  
6 this so-called game that you thought he was playing,  
7 correct?

8 A No.

9 Q You shoved him because you were just out of control,  
10 correct?

11 A No.

12 Q But, Deputy, after all of this stuff, you never  
13 charged Mr. Georgia with assault.

14 A Is that a question?

15 Q Yes.

16 A I did not charge Mr. Georgia with assault.

17 Q But if you thought that Mr. Georgia was being  
18 aggressive, as you said here, and was coming at you, that  
19 you had to shove him one time and then the games continued  
20 and you had to shove him a second time, and then the games  
21 continued and you had to shove him a third time, but you  
22 still did not charge him with assault?

23 A That's correct.

24 Q So you never felt threatened by Mr. Georgia.

25 A I did feel threatened by Mr. Georgia.



1 Q You did?

2 A Yes.

3 Q You -- you charged him with other crimes, and you're  
4 telling the Court that you felt threatened but you never  
5 charged him with assault.

6 A That's correct.

7 Q That's correct.

8 MR. KOPKO: Your Honor, I respectfully invite the  
9 Court's attention to the fact that it's 12:28. I'm close to  
10 the time that your Honor was going to adjourn. Would it be  
11 convenient, if instead of closing the examination, if I just  
12 stopped here and think about it over the lunch hour and then  
13 be able to pick up? If I do, it will be very brief.

14 THE COURT: Yeah, that's fine.

15 Mr. Troy, I take it you don't have any objection  
16 to breaking for lunch?

17 MR. TROY: I do not, your Honor. Just for the  
18 record, I propose not to examine my witness today but when I  
19 put him on my case he will respond to --

20 THE COURT: But you can do that as well. You can  
21 choose whether you want to do examination now, which would  
22 be your cross-examination, or call him as your witness,  
23 that's fine.

24 MR. TROY: I'm going to call him as my witness.

25 THE COURT: Okay. So the question I have,

1 Mr. Kopko, Mr. Troy, how long do you want to take for lunch?  
2 Mr. Kopko?

3 It cannot be three hours, so.

4 MR. KOPKO: Okay. I -- I don't -- I'm not  
5 familiar so much with downtown. There used to be a little  
6 restaurant just right around the corner here.

7 THE COURT: There -- I do not endorse anything,  
8 first of all, nor do I -- I don't give any ratings of food.  
9 There is a diner on this street, on this side of the  
10 building that I'm pointing to, and there's a diner maybe  
11 50 yards from here. I don't know if Burger Monday's, which  
12 is right here on the corner, if they're open. But it's  
13 burgers and sandwiches. Then on the other side of the  
14 building there is a taco garage, has tacos and burritos, and  
15 just one block past that is the Lost Dog, which has  
16 sandwiches, burgers, salads. Those are your immediate  
17 options. And then around the corner to this side of the  
18 building there is a small pizza place, I know that that's  
19 still there, so. And then if you walk over to the  
20 Metrocenter one block on Main Street, there's a couple of  
21 places, so.

22 MR. KOPKO: Thank you so much, Judge. What's the  
23 Court's pleasure?

24 THE COURT: I'll give you guys whatever, you know,  
25 within reason that you want. Half hour, 45 minutes, an

1 hour? You know, I'll give you an hour if you want an hour.

2 MR. KOPKO: 45 minutes will do it.

3 THE COURT: 45? Mr. Troy?

4 MR. TROY: That's fine, your Honor.

5 THE COURT: Okay. So let's say we'll be back at  
6 1:15 p.m. 1:15, 45 minutes?

7 MR. TROY: Yes, sir.

8 MR. KOPKO: Yes.

9 THE COURT: Okay, very good. We'll see everybody  
10 after lunch.

11 (Recess taken)

12 THE COURT: Let's go back on the record. All  
13 right. Welcome back, everyone, from our lunch break. We  
14 are back in court, and the parties are all here and all  
15 counsel are here. Hope you had a good lunch.

16 So, Mr. Kopko, we ended before the lunch break.  
17 You had Deputy Davenport on examination. Do you have  
18 additional questions, Mr. Kopko?

19 MR. KOPKO: I have none at this time, your Honor,  
20 but I reserve my right to conduct an examination after  
21 Mr. Troy does his examination in his case-in-chief.

22 THE COURT: Yes. You would be entitled, my  
23 understanding is that Mr. Troy, he can speak for himself,  
24 but I understood that he would be calling Deputy Davenport  
25 in his direct case-in-chief and then you would have the

1 opportunity to do cross-examination, obviously.

2 MR. KOPKO: Yes, your Honor.

3 THE COURT: Okay. All right. So you don't have  
4 any further questions at this time?

5 MR. KOPKO: No, sir.

6 THE COURT: Okay. And, with that, I need 30  
7 seconds to grab my laptop and plug it in here, which I  
8 forgot to bring.

9 (Pause in proceedings)

10 THE COURT: All right. So we're back on the  
11 record. And did you indicate, Mr. Kopko, that you have no  
12 further questions at this time for Deputy Davenport? Is  
13 that correct?

14 MR. KOPKO: Yes, your Honor.

15 THE COURT: All right. And then obviously  
16 reserving the right to cross-examine him if and when  
17 Mr. Troy calls him.

18 MR. KOPKO: Yes, sir.

19 THE COURT: All right. Mr. Kopko, you may  
20 proceed.

21 MR. KOPKO: All right. Thank you, sir.

22 THE COURT: And you're calling Mr. Georgia?

23 MR. KOPKO: Yes, the plaintiff.

24 THE COURT: Mr. Georgia, if you just come right up  
25 here to the witness chair. And if you just remain standing

1 for a minute, be sworn in.

2 THE CLERK: Can you please state your full name  
3 for the record.

4 THE WITNESS: Ronald Maynard Georgia.

5 (The witness was duly sworn.)

6 THE COURT: Somebody's rubbing against the  
7 microphone, okay. It might have been you.

8 Okay. Yeah. Okay, all right, Mr. Georgia, just  
9 you can adjust that microphone, and please use the  
10 microphone. It makes it much easier for all of us.

11 And, Mr. Kopko, you may proceed.

12 MR. KOPKO: Thank you, your Honor.

13 RONALD GEORGIA,  
14 having been called as a witness, having  
15 been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KOPKO:

18 Q State your full name and your current address.

19 A Ronald Maynard Georgia, 791 Van Ostrand Road, Groton,  
20 New York, 13073.

21 Q And how long have you lived there?

22 A Almost five years.

23 Q All right. Now, in very summary form, just give us  
24 the capsule of your life, where were you born, what kind of  
25 schooling do you have, just a paragraph.

1 A Okay, I was born in Elmira, New York. I lived in  
2 Lansing, New York, went to school in Lansing. Graduated and  
3 went into the Marine Corp. Came out of the Marine Corps and  
4 joined the sheet metal union. Did that for 36 years. I  
5 retired and now I drive for a transit company in Ithaca, New  
6 York, TCAT.

7 Q TCAT. And you have a companion?

8 A I do. Lucinda Jones.

9 Q Tell us about her and that relationship.

10 A Lucinda and I have been together for 33 years, so  
11 we've had 4 children together. My oldest, Hailey, who's 30  
12 years old, she's a school teacher in Hannibal, New York. My  
13 second daughter, Emily, who's 25, she's a drug and alcohol  
14 counselor in Ithaca, New York. And my two sons which are  
15 twins are 18, and they're both attending college at this  
16 time.

17 Q Now, and you live on Van Astrand Road?

18 A Van Ostrand.

19 Q Ostrand, okay. Thank you. Were you living there on  
20 June 1st, 2019?

21 A Yes, I was.

22 Q All right. In the later evening of that day, describe  
23 what you were doing?

24 A It was Saturday evening. It was my first day of  
25 vacation. And sat out, we had a little barbecue, Lucinda

1 had to go to bed, and I was sitting back listening to music.

2 Q And were you there alone?

3 A Yes. At -- outside.

4 Q Outside.

5 A Yes.

6 Q And who else was there in your house?

7 A Lucinda was there, my two sons, and a friend of  
8 theirs.

9 Q And what were you doing outside?

10 A I was having a couple drinks and listening to music,  
11 watching fireworks go off around the neighborhood, relaxing,  
12 enjoying my first day of vacation.

13 Q Do you know Mr. Gonzalez, who was reputed to be a  
14 neighbor of yours?

15 A I do.

16 Q Did you see him that night?

17 A I did not.

18 Q Did he ever come over to your house and talk to you?

19 A Not on that night.

20 Q Did he ever come over and ask you to turn down the  
21 music?

22 A No, he did not.

23 Q Was there a time in the course of your evening where  
24 you saw Deputy Davenport?

25 A There was.

1 Q All right. Tell us about that.

2 A I was sitting there, apparently singing, and I looked  
3 up and all of a sudden there was Deputy Davenport standing  
4 on my patio. And no car in the driveway, and he startled  
5 me. I couldn't figure out where he came from. It confused  
6 me.

7 MR. KOPKO: Your Honor, I beg your pardon, I have  
8 to just briefly leave the courtroom urgently here. May I do  
9 that, please?

10 THE COURT: Sure. Yeah. Just take a few-minute  
11 break.

12 (Pause in proceedings)

13 MR. KOPKO: I had some health issues and I had  
14 40 percent of my bowel taken out, so instead of getting a  
15 half hour's notice I get like 30 seconds notice.

16 THE COURT: Mr. Kopko, you don't need to explain  
17 anything, and anyone in the courtroom, I never -- I never  
18 want anybody to be uncomfortable. So if you're sitting here  
19 and you're uncomfortable and you need to take a break,  
20 whether restroom or otherwise, just say so, and we take a  
21 break.

22 MR. KOPKO: That's so kind of your Honor, thank  
23 you.

24 THE COURT: Not a problem.

25 BY MR. KOPKO:



1 Q Mr. Georgia, I was asking you about this evening, and  
2 we were at the point in your examination where you were  
3 telling me where you first saw Deputy Davenport.

4 A Yes, I --

5 Q Pick it up there.

6 A I looked up, and I saw him standing there. And he  
7 frightened me. I couldn't figure out where he came from. I  
8 thought he came across from the neighbor's yard, maybe. And  
9 I told him get -- get the fuck off my property. He -- and I  
10 honestly don't know as I would interact that way if he  
11 pulled in my driveway and I knew why he was there or saw him  
12 there. He startled me. That started the whole episode.

13 Q Okay. How did you -- tell the judge how you felt  
14 about, you know, what you said. We heard it all here and we  
15 understand what it was, but describe why you were reacting  
16 in the fashion that you were reacting.

17 A I -- I would say because I was startled, and I felt  
18 that I had not committed any crime. I was listening to  
19 music. A person, not Ricky Gonzalez, had come up earlier  
20 and told me to turn that crap off. And I told him to get  
21 off my property. They said I'm going to call the police.  
22 Okay. And they left. And then out of the dark, there's  
23 Mr. Davenport standing there. My reaction was fight or  
24 flight kind of reaction. And that's how I told him get off  
25 my -- get the fuck off my property. I -- there's no noise

1 ordinance, I know I wasn't doing anything wrong. Couldn't  
2 figure out why he was there.

3 Q Now, you were in the United States Marine Corps.

4 A Yes, I was.

5 Q Tell us your views about protecting your property.

6 A You protect it with -- as much --

7 MR. TROY: Your Honor, objection.

8 THE COURT: Objection?

9 MR. TROY: I don't think this is relevant.

10 THE COURT: Well, you know, I'm going to allow it,  
11 Mr. Troy. I think it's getting to the mind-set of the  
12 plaintiff, because obviously as we saw in the video things  
13 occurred from both the plaintiff and defendant, and I think  
14 we explored quite a bit the mind-set of Deputy Davenport,  
15 his thoughts. I'm going to allow it because, one, I think  
16 it helps explain actions and conduct that otherwise might  
17 not be as clear. And, and again, most importantly, the  
18 Court, the Court is a trier of fact. If there's something  
19 irrelevant or inappropriate the plaintiff discloses, I'm  
20 pretty sure I can take that and compartmentalize it, so.

21 Go ahead, Mr. Kopko.

22 MR. KOPKO: Yes, sir.

23 BY MR. KOPKO:

24 Q Continue on. What was your view about defending your  
25 property?

1 A My view is that it's my constitutional right to  
2 protect my property, it's my duty as a land -- a father of  
3 children and a homeowner to protect my property. Especially  
4 if I'm not breaking the law doing it. I'm following the  
5 law.

6 Q All right. Now, you were playing music.

7 A Yes, I was.

8 Q How -- how was this being played, what -- what was  
9 this?

10 A It was through my phone onto a speaker.

11 Q And were you using a particular app?

12 A I was, and I'm drawing a blank at the name of it.

13 Q Panda?

14 A Pandora.

15 Q Pandora?

16 A Pandora.

17 Q And you were there and Deputy Davenport, we have this  
18 all on the tape and we have seen all of that stuff. What  
19 was your reaction to Deputy Davenport grabbing your arm?

20 A I pulled away. I didn't understand why he was  
21 grabbing my arm. And honestly didn't think he could tell me  
22 where I could be on my property. He had to be where I told  
23 him on my property, which was off it.

24 Q Now, there was also another time where Deputy  
25 Davenport put his right hand on the left portion of your

1 chest and shoved you backwards. What was your reaction to  
2 that?

3 A I think it angered me more. Well, I know it angered  
4 me more. I didn't -- didn't hurt, it just angered me; who  
5 are you, pushing me, on my property.

6 Q And then as the video progresses, Deputy Davenport  
7 pushed you two other times, okay. Describe for his Honor  
8 what your reaction was to that.

9 A I -- I didn't even see it coming. He pushed me and  
10 then he charged me and shoved me till I hit my head on my  
11 concrete patio, and attacked me. Continued to attack me, in  
12 my opinion. Threatened to pepper spray me. Over nothing.  
13 I did nothing. I never pushed him, I never touched him. He  
14 attacked me. He assaulted me. And then in fact kidnapped  
15 me off my property.

16 Q Now, and there is a segment in the video when he is  
17 handcuffing you. Did you resist being handcuffed?

18 A No. I couldn't understand why he was, why -- I -- I'm  
19 still confused about being charged with resisting arrest  
20 when the words never came you are under arrest. So how  
21 could you realize that you were supposed to be put in  
22 handcuffs. I -- I never heard those words.

23 Q Now, tell his Honor about the pressure, the tightness  
24 of the handcuffs on your wrist.

25 A When he first put them on I think I was so angry, and

1 I don't recall a lot exactly of what I said and how I felt  
2 at that time. But later on I do remember it hurting, like  
3 when I was at the police station, and asking. And it wasn't  
4 Officer Davenport that was responding, it was the bigger  
5 fella, I can't remember his name, saying they're as loose as  
6 I can put them. You have big wrists. But I was bleeding  
7 from my wrists.

8 Q Okay. Now, and how did you -- do you remember when  
9 other law enforcement officers came to the scene?

10 A I do but I -- I recall it better from seeing it on the  
11 video than what I thought had happened, to be honest with  
12 you, what I remembered. I do -- I do recall there being  
13 more than one officer.

14 Q Now, Mr. Georgia, I'm showing to you what appears to  
15 be an aerial photograph. Do you recognize this scene?

16 A That is my property, my house.

17 Q And can you --

18 THE COURT: Mr. Kopko, just what exhibit are we  
19 looking at, just for the record?

20 MR. KOPKO: 26, your Honor.

21 THE COURT: Okay. Exhibit 26.

22 BY MR. KOPKO:

23 Q Begin with the driveway and explain what this  
24 photograph depicts.

25 A So this is Van Ostrand Road going in front of the

1 property. The bushes that as you look at the picture are to  
2 the left is where Officer Davenport parked his patrol car.  
3 If you go back to the driveway, on the very edge --

4 THE COURT: Mr. Georgia, hold on.

5 MR. TROY: I don't mean to interrupt. Not so much  
6 that, just to request he pull the mic a little bit away,  
7 because I think it's hard for him to understand. Please  
8 forgive me.

9 THE COURT: Okay. We have feedback, yeah. Okay,  
10 Mr. Georgia, you got a good loud voice so you don't have to  
11 be right up on the mic. I tend to do that also, so I  
12 apologize. Just step a little back, and.

13 THE WITNESS: Can you hear me now?

14 So as you go up the driveway, you see the two  
15 cars, the red car and the gray car, I guess it is. Just to  
16 the left is the canopy where I was sitting and I was  
17 approached by Officer Davenport, Deputy.

18 BY MR. KOPKO:

19 Q Now, the incident that has been described by you and  
20 by Deputy Davenport, where did that occur?

21 A At the patio. To the right of the house, you go down  
22 the driveway, to that side of the house, you can see the  
23 smaller metal roof right there. It actually was a different  
24 canopy at that time. It was a cloth one. Okay.

25 Q Now.

1 MR. KOPKO: This is Exhibit 25, your Honor.

2 THE COURT: Okay.

3 BY MR. KOPKO:

4 Q And there's a number of photographs that are in this.  
5 We're just going to go through this pretty quickly here,  
6 Ron, okay? And you're going to describe what the -- what  
7 the scene depicts. All right?

8 A Okay. I can't -- I guess that's -- my knee, my right  
9 knee? And down my leg where I was pushed around while the  
10 handcuffs and being threatened with the pepper spray.

11 And my wrist is from the handcuffs, which I still  
12 actually have a scar from that one.

13 MR. TROY: Is that 26?

14 MR. VIOLETTE: That's 25.

15 THE COURT: Okay, Mr. Kopko, I think this is all  
16 25, right? A series of photos.

17 MR. KOPKO: Yes. These are all bundled.

18 THE COURT: That's what -- I know Mr. Troy was  
19 asking, but these are photographs in Exhibit 25 but there's  
20 numerous photographs.

21 BY MR. KOPKO:

22 Q And this is a picture of your?

23 A My right wrist and my knee, my right leg, and my  
24 elbow.

25 Q All right, what was -- it looks like there is a more

1 prominent contusion on your elbow. What -- what was that?

2 A I'm not positive when that happened or at what point  
3 during my attack.

4 Q Did you have any of these injuries before Davenport?

5 A No, I did not.

6 Q Describe what you see on your knee.

7 A Again, that happened at some point. I'm -- I would  
8 have to guess. I don't think guessing is the right thing to  
9 do. It was at some point during the attack.

10 Q All right, so you -- you had none of these injuries  
11 before Deputy Davenport, you had all of these injuries  
12 after. Is that correct?

13 A That is correct.

14 Q All right. Just keep going through this.

15 A I believe that's another view of my elbow and my wrist  
16 and my right arm.

17 That's my lower back, where Officer Davenport, I  
18 assume it was his knees were on me.

19 I honestly can't -- I think that's under my  
20 armpit.

21 Q It looks like it could be fingerprints. Do you  
22 know --

23 A Yes.

24 Q -- that to be true?

25 A Yes, I think that's what it is, grabbing me.



1           On both arms I believe that's what you can see.

2       Q       On both sides there in your bicep area?

3       A       That's where he grabbed onto me.

4       Q       The top is your chest?

5       A       Yes.

6       Q       What does that --

7       A       That is my back, actually. That's where I actually  
8       had my ribs checked to see if they had been broke. Because  
9       I was in a lot of pain for a long time for that, which they  
10      weren't broke.

11           That's another bruise on my lower back.

12           MR. KOPKO: Now, your Honor, may I sit down while  
13      we're going through this?

14           THE COURT: Sure. Yeah, you don't have to be at  
15      the podium, you can sit at the table if you'd prefer, or at  
16      the podium. Just move that mic over, if you could, please.  
17      I'm pretty sure it moves. Unless they gave you the short  
18      cord that they gave me.

19           MR. KOPKO: Thank you so much.

20           THE COURT: Okay.

21      BY MR. KOPKO:

22      Q       Just go ahead, Ron, just describe this as accurately  
23      as you can, and tell the location on your body and give some  
24      account of what -- what it was.

25      A       I -- I can't honestly tell where that is on my body.

1 I -- I think it's my lower back.

2 Q It looks to me, but I'm not testifying, it looks to me  
3 as though that's in the small of your back and then it's on  
4 the left -- the left-hand side?

5 A That's how I see it too.

6 THE COURT: Hold on a second. Mr. Troy?

7 MR. TROY: It's a good thing counsel's not  
8 testifying. I would object to that.

9 THE COURT: Well, I understand. Mr. Kopko I think  
10 is just trying to direct, but the photographs speak for  
11 themselves, and I think it's fairly clear on what we're  
12 looking at.

13 A Again that's my right knee, and it swelled up quite a  
14 lot by then. And it happened sometime during the attack.  
15 I'm guessing after I had been rolled over for the handcuffs.

16 That also happened during the attack. Right knee.

17 That's my left leg behind my knee. At some point  
18 during the attack.

19 That's my right arm again showing where the  
20 handcuffs were on my wrists and the damage to my elbow and  
21 the fingerprints on my upper arm.

22 Same. I believe that's when I was being, I'd like  
23 to use the term drug, but assisted off my property.

24 BY MR. KOPKO:

25 Q Well, that's a point. Do you recall that you were

1 dragged off of your property?

2 A I recall I had no shoes on, I tried -- and I can't  
3 honestly say that I was drug but I was in pain because I  
4 have coal sharp stones on my driveway. But I was being  
5 pulled along at the pace that they wanted me to go at.

6 Q Do you recognize what part of your body that is?

7 A I think it's my left arm just below the elbow.

8 I'm honestly not sure if that's the same. I'm not  
9 sure where that is.

10 I believe that's right behind my right elbow.

11 I'm not positive.

12 Q Well, you have to -- we have to try to identify that.  
13 Think about it. It looks like it's something --

14 A I think it's my arm because I can see the shirt sleeve  
15 at the top so I'm guessing the inside of my arm, just above  
16 my elbow.

17 MR. TROY: Object, objection to guessing.

18 THE COURT: Well, yeah, but just to bring this  
19 back, both parties agreed to these exhibits as coming into  
20 evidence, the Court received them in as evidence. They, to  
21 my understanding, are photographs of various parts of the  
22 plaintiff's body. If Mr. Georgia's not sure which part, I  
23 think it's pretty clear it's some part of his body. And  
24 like I said before, I think the photographs speak for  
25 themselves, so.

1           You know, Mr. Georgia, don't speculate but if you  
2           can assist either counsel when they're asking where it is,  
3           certainly, but, but you don't have to speculate.

4           THE WITNESS: The upper picture is my lower back  
5           on the left side showing bruising. Again I -- I'm assuming  
6           happened when Deputy Davenport was on my back with the  
7           handcuffs.

8           And that would be the lower side of my arm just  
9           below my elbow, the back of my arm.

10           And that's showing the opposite side, like I was  
11           grabbed by there, and that's where I was being pulled down  
12           the driveway.

13           BY MR. KOPKO:

14           Q       Now, we see the injuries here. Did you have injuries  
15           that we cannot see like to systems of your muscles or your  
16           bones or anything like that where you?

17           A       As I had stated earlier, I thought my ribs were broke.  
18           But they weren't. My wrist bothered me for a long time but  
19           the doctors really couldn't find anything wrong. Other than  
20           scarring.

21           Q       What's -- what's a long time? Was it --

22           A       A couple months.

23           Q       -- hours, days, weeks?

24           A       Couple of months.

25           Q       Couple of months?

1 A Couple of months. Driving bus I would notice it all  
2 the time, 'cause you got that big wheel you got to turn, and  
3 I could feel it in my wrist.

4 Q Now, did you seek medical attention for these  
5 injuries?

6 A I did.

7 Q Describe what that is.

8 A I went to my physician's assistant, and he sent me to  
9 get checked out with an MRI for my ribs, or I think it was  
10 MRI or X-ray. I guess X-ray machine. It was a -- I don't  
11 know if it's called an MRI, or. Not positive what the  
12 machine is, to check to see if my ribs were broke. They  
13 checked my wrists, they took X-rays, and they couldn't see  
14 anything broke. But they did see contusions.

15 Q Okay. Now, we covered that part about the contusions  
16 and the musculoskeletal. Did you have any psychiatric  
17 experience as a result of this? Did you have any mental  
18 aspect of this?

19 A Yes, I have.

20 Q Tell the judge about that.

21 A It's -- it's like you can lose your property for not  
22 paying your taxes but I've learned that you can also lose  
23 your rights by some officer deciding they're going to  
24 administer punishment for not doing what they say. Even  
25 though their order was not lawful. We double-check our cars

1 every night when we lock them. Our doors. And I am -- I do  
2 fear for retribution from our sheriff's department. I bring  
3 this up in my mind constantly. I -- my kids, they see it.  
4 It bothers me. I've lost my will to even work on my  
5 property. It's the same thing as it was before that all  
6 started, and that was the first day of a staycation to work  
7 on our property which we got into the fall before. Our  
8 first property we owned, we didn't rent. And he was able to  
9 take that from me. By falsely accusing me, doing a press  
10 release that was untrue.

11 It infuriates me to this day. I've always  
12 followed the law. I've never broke the law. You can look  
13 up an arrest record, there isn't one. Look up my driving  
14 record, there is nothing there. We have done nothing but  
15 try to raise good kids. I am so proud of my kids. My  
16 daughter has a master's degree in education, is at the  
17 poorest school district you could be in in New York State  
18 because she wants to help the kids. My second daughter is a  
19 drug and alcohol counselor who's going to college to become  
20 a psychiatric nurse. She wants to work with the VA. My  
21 boys both wanted to go in law enforcement but they don't now  
22 because they're not quite sure that that's -- not saying  
23 they're not, they're thinking more on the forensic side of  
24 it. I worked my butt off to get my property to have my  
25 peace of mind, and I don't have it anymore from that.

1           From what you did. You think it's not a big deal,  
2           try it out sometime. Have somebody falsely accuse you of  
3           menacing your neighbors, doing a press release.

4           I had to answer to friends and my kids' parents  
5           before they would let them stay at our house. I always had  
6           ten kids at our house, all the time. Other parents got  
7           where they got nervous about it because they thought I was  
8           some kind of crazy drunk. I don't drink that much. I did  
9           that night. I did. It was the first night of a vacation,  
10          probably had more than I should have. Probably acted a  
11          little different than I normally would have. I never acted  
12          like that to anybody. But I was furious. And I still am  
13          furious. And I -- and I have people say well, why don't you  
14          go to a psychiatrist. How do you stop me from feeling I've  
15          lost my rights. That's how I feel about it.

16       Q       Now, you mentioned several times about the press  
17       release. Tell us what impact that press release had on your  
18       life.

19       A       It's an embarrassment. I have people to this day  
20       would who still go, hey, have a good weekend, Ron, keep out  
21       of the booze and keep Metallica off the radio, ha, ha, ha.  
22       My employment wanted to know. If I was found guilty they  
23       might have gotten rid of me because you can't have these  
24       charges on your record. To be there. It was a -- it was  
25       like people came to our house who have known me my whole

1 life and they were like what happened. They can't believe  
2 what that press release did. Which was a lie. Everything  
3 that was said in that press release was a lie. I never  
4 threatened the neighbor. I didn't resist arrest. I didn't  
5 commit public -- I can't even think I'm so mad now thinking  
6 about it.

7 Q Here, just a second. We have this up on the courtroom  
8 screen, okay? So just slowly go through this.

9 THE COURT: Mr. Kopko, this is Exhibit Number?

10 MR. KOPKO: 36, your Honor.

11 THE COURT: Okay. Because we just need to put on  
12 the record, because I can see it but until somebody says the  
13 magic word 36, the record doesn't know what we're looking  
14 at.

15 Go ahead.

16 BY MR. KOPKO:

17 Q So I want to go through this line by line, okay? In  
18 the first line it says Tompkins County deputies responded.

19 Initially it was only Deputy Davenport. Is that  
20 correct?

21 A That's correct.

22 Q There were not multiple deputies responding.

23 A Not -- not at -- at some point there were but I'm not  
24 sure at that time. No, I don't believe so.

25 Q And in the second line it says deputies were called



1 after nearby residents.

2 There were not multiple deputies called, correct?

3 A Correct.

4 Q And that's -- that part is false, correct?

5 A That's true.

6 Q And after nearby residents. Do you have any  
7 information to believe that multiple residents called?

8 A No, I don't.

9 Q Now, it goes on to read, say that they were threatened  
10 after they went over. They being plural.

11 Is that statement at all true?

12 A That is not true.

13 Q And in your experience in this incident, nobody was  
14 threatened. Is that correct?

15 A That is correct.

16 Q And it reads, open quote, deputies found that the  
17 music was extremely loud upon arrival.

18 Did -- did you hear the music that was broadcast  
19 through Deputy Davenport's video when he got out of the car?

20 A I did not.

21 Q There was -- there was nothing about -- do you agree  
22 that there was nothing about the volume of the music when  
23 Davenport got out of his car?

24 A Not that I could hear.

25 Q Is there any basis, in your view, that the music was

1 extremely loud upon arrival, where they're saying when they  
2 arrived?

3 A Not to my knowledge.

4 Q Now, it reads further that you were transported to the  
5 Cayuga Medical Center due to your intoxication level. Were  
6 you transported to the Cayuga Medical Center to treat the  
7 injuries that Davenport had inflicted upon you?

8 A That's what I had asked for, according to the video in  
9 the police station.

10 Q Okay. But it wasn't because you were intoxicated, it  
11 was because Davenport had beat you, correct?

12 A Exactly. That's why I wanted to go and why I thought  
13 I was going.

14 Q And didn't you in fact go to the Cayuga Medical  
15 Center?

16 A I did.

17 Q All right. Tell us about that. Pick up from the time  
18 that you went to the Cayuga Medical Center and what happened  
19 there to you.

20 A What I remember from it was being admitted, and I  
21 do -- I do know that I had -- I had cursed, and I apologized  
22 to the nurse, but they took me in and a security person was  
23 there. And the attending nurse didn't think I should have  
24 anything done to my wounds until I got pictures. And then I  
25 sat there till Lucinda came.

1 Q And Lucinda took the pictures?

2 A Yes.

3 Q Now, when you were at the Cayuga Medical Center, were  
4 you restrained?

5 A I was.

6 Q All right. Tell his Honor how you were restrained.

7 A I had the handcuffs on, and they were still wrenched  
8 down just like they had been from the beginning.

9 Q And when you were there, were you chained to a bed?

10 A I do not recall that.

11 Q In addition to Deputy Davenport, who else was -- who  
12 else's custody were you in?

13 A It was Sergeant Vann and I do not know the name of the  
14 other officer. It was mentioned today but, big fella.

15 Q Can you describe what emotional effect that had on you  
16 being taken to the hospital and being custody, being in  
17 custody, how -- how was that for you?

18 A It was embarrassing being brought in the public and  
19 treated like I was some hardened criminal, and it was the  
20 first time I saw somebody besides the police that night that  
21 I could vent to that I'm being mistreated.

22 Q And while you were at CMC, did Deputy Davenport make  
23 any attempt to loosen your handcuffs?

24 A He did not.

25 Q Now, we see the injuries to your wrists, right, that

1 was in Exhibit Number 25. Are those injuries were caused by  
2 the handcuffs that Davenport put on you?

3 A Yes, they were.

4 Q Now, in addition to those contusions, did you have any  
5 restrictions on -- I know you mentioned about turning the  
6 wheel when you were driving the bus. How long did that go  
7 on in your life? How long did you have some effects for  
8 having the handcuffs cranked down?

9 A A couple months. It bothered me. It -- I've got  
10 scarring.

11 Q You still have that scar?

12 A I do.

13 MR. KOPKO: Your Honor, could the Court take a  
14 look at those residual scar?

15 THE COURT: Of the wrists, are you saying,  
16 Mr. Kopko?

17 MR. KOPKO: Yes, sir.

18 THE COURT: Mr. Troy?

19 MR. TROY: I have no objection.

20 THE COURT: That's fine with the Court, if  
21 Mr. Georgia wants to pull up his shirt.

22 MR. KOPKO: Your Honor, I think that's part of the  
23 permanent injury here, your Honor, and I would like the  
24 Court to be aware of that.

25 THE COURT: Okay. You can display it, the injury

1 that you believe is still there in terms of the wrists, I  
2 take it, or the hands?

3 MR. KOPKO: Yes, your Honor.

4 THE COURT: Sure. How would you like to do that,  
5 do you want to have Mr. Georgia stand up, or?

6 BY MR. KOPKO:

7 Q Could you stand up? And you are -- I have seen it  
8 many times. Just show it to the judge in a way that he gets  
9 a good look at that.

10 THE WITNESS: This is the right wrist.

11 THE COURT: Okay.

12 THE WITNESS: If you can look in the picture, you  
13 can see that that's exact spots where it was.

14 THE COURT: All right, I'm looking at your right  
15 wrist.

16 See that, Mr. Troy?

17 MR. TROY: Yes, sir.

18 THE COURT: Anything else, any other area, or?

19 THE WITNESS: None that I know of.

20 BY MR. KOPKO:

21 Q What about your legs? You had some pretty big  
22 contusions. Do you have any residual, something long term?

23 A I can't honestly say that I do. My legs bother me but  
24 it could be from other things at this point in my life. I  
25 worked construction for 36 years.

1 Q Now, tell us, I'm pausing because it may be difficult  
2 for you to do so. So you have to tell us, we don't know.  
3 Tell us about Lucinda.

4 A We discovered on January 28th, they had taken her to  
5 the hospital from work, they thought she was having a  
6 stroke. It turned out to be brain tumors. And she has  
7 esophageal cancer and is at home on hospice.

8 And one of her favorite things was to want to be  
9 outside at night. We have fire pits. She wouldn't do it.  
10 We -- as soon as it was dark, we were going to do it, she'd  
11 hear a noise, we're going in. And it was since that day on.  
12 And that really, really, really pisses me right now because  
13 she doesn't have much time left on this planet, and that was  
14 one of her most enjoyable things is to be able to sit out,  
15 watch the sunset, have a fire, and relax on our own  
16 property.

17 Q All right, now using -- using that same incident that  
18 you described, please tell his Honor how that affects you,  
19 okay? Not -- not so much her, but how that affects you so  
20 that your partner cannot enjoy this time, okay?

21 A We've been together, like I said earlier, for 33  
22 years. She's been the best part of my life. The mother of  
23 my children. And for her not to enjoy what time she had,  
24 not even knowing where she is right now, and I also feel the  
25 same way. We don't trust being outside at night. Just

1 absolutely not. It's taken our pleasure away. I complained  
2 about it for years to her about this case, I brought it up  
3 every night. It's embarrassment, it's just anger that I  
4 want -- went through this. And like I said, you can look it  
5 up. I've never been arrested for fighting, pushing, saying  
6 anything, breaking the law, speeding, nothing. In my life.  
7 And now I'm threatened for a bull crap fricken charge. None  
8 of it was true. Even as you saw on the video at my patio,  
9 the music wasn't playing and you continued to illegally take  
10 me off my property. I broke no law. You did. You broke  
11 the law.

12 THE COURT: Mr. Georgia.

13 Hold on. Hold on, Mr. Kopko.

14 Mr. Georgia.

15 THE WITNESS: I'm sorry.

16 THE COURT: No, that's okay, but you -- you have  
17 to restrict answering Mr. Kopko's questions and not  
18 directing anything towards Mr. Davenport or his lawyer. So,  
19 you know, I understand, but.

20 THE WITNESS: I apologize. I apologize.

21 THE COURT: You have to control yourself and just  
22 answer Mr. Kopko's questions the best you can. Okay?

23 BY MR. KOPKO:

24 Q Now, Ron, with his Honor's instruction in mind, okay,  
25 explain what prompts you to be so excited about this right

1 now. Okay? Don't direct anything to Davenport, tell the  
2 judge why you're so upset right now.

3 A This has taken three years and ten months to get here.  
4 This is the only way legally I have to right the wrong that  
5 I feel was put upon me. When the district attorney, I -- I  
6 blame him as well. They saw that video footage, they saw  
7 the law being broken by Mr. Davenport, and they still  
8 prosecuted. They attempted. They lost. It scarred my  
9 soul.

10 This is -- I have tried to be a law-abiding  
11 citizen, paying my taxes, doing good things, raising great  
12 kids. This stole part of that from me. It's -- it's --  
13 it's -- I -- it's my right, they've taken my rights and  
14 threw them to the wind. If you want to try to get something  
15 back for your rights, then you have to end up in Federal  
16 Court. You have to spend a fourth of what I made the year  
17 that I was arrested on an attorney to get off bogus charges.  
18 It just infuriates me. I don't know how to get past it, I  
19 need to be better about it, but I just don't know how else  
20 to explain it. I -- I think I have a right to live in my  
21 house, not break any laws, I don't break any laws, and enjoy  
22 my property, and I don't have that anymore.

23 Q Now, without saying anything that Lucinda could have  
24 told you, I'm going to ask you something in a little  
25 convoluted way, okay. Just answer this yes or no. Has



1 Lucinda been upset about this incident?

2 A Yes.

3 Q Okay. Now, describe for his Honor what Lucinda being  
4 upset has caused to you. What effect is that on you?

5 MR. TROY: Objection, your Honor. This is way too  
6 attenuated.

7 THE COURT: Speak up, Mr. Troy, I'm sorry, I  
8 couldn't hear you.

9 MR. TROY: I'm sorry. This is way too attenuated  
10 and it's hearsay and speculation. I don't think this  
11 testimony should be permitted.

12 THE COURT: Well --

13 MR. TROY: This man as a party I can see, but I  
14 can't see a family member.

15 THE COURT: Well, let me just break that down. If  
16 I hear Mr. Kopko's question correctly, he does not want the  
17 witness to relay any hearsay, so he's not asking that  
18 Mr. Georgia should not offer what miss -- or what Lucinda,  
19 as has been referred to, has said or stated. But the other  
20 half of the question is saying or asking this witness what  
21 has -- what, if any, effect has that had on him, presumably  
22 either emotional or psychological. And because it's related  
23 to the event, again, whether rightly or wrongly, whether or  
24 not Lucinda can be affected by this event or not,  
25 Mr. Georgia is being asked how has that impacted his

1 well-being, if I can put it that way, or his emotional  
2 aspect. So I'll allow that.

3 But just to be clear, Mr. Kopko, Mr. Georgia, not  
4 what Lucinda may have said to you or what she feels or -- or  
5 how she has internalized this, but rather how has that part  
6 of your life, observing what's happened to her, how's that  
7 impacted you either emotionally or psychologically. And  
8 then it's argument as to whether or not there is causation  
9 or not or to what degree and so forth, but.

10 Do you understand -- Mr. Kopko, do you understand  
11 my ruling?

12 MR. KOPKO: Yes, sir, and I totally agree with it.  
13 That's exactly the intent and the thrust of this.

14 THE COURT: All right. So, Mr. Georgia, you  
15 can -- you can describe what, if any, effect it has had on  
16 you, either emotionally or otherwise, observing Lucinda's  
17 actions as it's related to this matter.

18 THE WITNESS: Again, it really bothers me that she  
19 can't enjoy -- so I work a job that I might be getting up at  
20 five in the morning for three months, work until  
21 eight thirty at night, or I could be going in at  
22 four o'clock in the afternoon and getting home at two thirty  
23 in the morning. So there's many times where she's home  
24 alone. It's her night off. She might want to sit out on  
25 the patio and have a drink. She doesn't dare. And that

1 hurts me that she doesn't dare, that she doesn't feel  
2 comfortable on our property. She's -- our combined  
3 property, it's not just mine, it's half hers. That she does  
4 not feel -- it bothers me, it hurts me that she doesn't feel  
5 safe. Got to lock the doors and get in the house.

6 BY MR. KOPKO:

7 Q Okay, you say it bothers you, and you -- it hurts you.  
8 Can you explain further as to what you're feeling about  
9 that? How that affects you?

10 A I guess I -- I can't do anything about it and it makes  
11 me feel like lesser of a person 'cause I can't make her feel  
12 better about it. I can't make her feel comfortable. I'm  
13 even to the point of trying to see if she wanted to get a  
14 pistol permit. And if she feels safe sitting outside with  
15 that at night. I -- it breaks my heart that I can't make it  
16 better for her.

17 Q Yeah. The feelings that you're describing, have you  
18 had these feelings since June 1st of 2019?

19 A Yes.

20 MR. KOPKO: Now, just a brief indulgence, your  
21 Honor, please.

22 THE COURT: Certainly.

23 MR. KOPKO: Nothing further at this time.

24 THE COURT: All right, Mr. Kopko.

25 Mr. Troy, you may inquire.

1 MR. TROY: May we approach?

2 THE COURT: Well, we're -- we can just go off the  
3 record. Approaching just means that we stand a little  
4 closer to each other here, so let's go off the record.

5 (Off-the-record discussion was held.)

6 THE COURT: We'll adjourn till Friday at one.

7 Mr. Georgia, you're excused for today.

8 THE WITNESS: Thank you.

9 THE COURT: All right, everyone, have a good day  
10 tomorrow, and we'll see you Friday at one.

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